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Letter dated 16 May 2018 from the Chair of the Security Council Committee established pursuant to resolution 1988 (2011) addressed to the President of the Security Council

I have the honour to transmit herewith the ninth report of the Analytical Support and Sanctions Monitoring Team established pursuant to resolution 1526 (2004), which was submitted to the Security Council Committee established pursuant to resolution 1988 (2011), in accordance with paragraph (a) of the annex to resolution 2255 (2015).

I should be grateful if the present letter and the report could be brought to the attention of the Security Council members and issued as a document of the Council.

(*Signed*) Kairat **Umarov**
Chair
Security Council Committee established
pursuant to resolution 1988 (2011)

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Letter dated 30 April 2018 from the Analytical Support and Sanctions Monitoring Team addressed to the Chair of the Security Council Committee established pursuant to resolution 1988 (2011)

I have the honour to refer to paragraph (a) of the annex to Security Council resolution 2255 (2015), in which the Council requested the Monitoring Team to submit, in writing, two annual comprehensive, independent reports to the Committee, on implementation by Member States of the measures referred to in paragraph 1 of the resolution, including specific recommendations for improved implementation of the measures and possible new measures.

I therefore transmit to you the ninth report of the Monitoring Team, pursuant to the above-mentioned request. The Monitoring Team notes that the original language of the report is English.

(*Signed*) Edmund **Fitton-Brown**
Coordinator
Analytical Support and Sanctions Monitoring Team

Ninth report of the Analytical Support and Sanctions Monitoring Team submitted pursuant to resolution 2255 (2015) concerning the Taliban and other associated individuals and entities constituting a threat to the peace, stability and security of Afghanistan

Summary

The present report provides an update on the situation in Afghanistan since the issuance of the eighth report of the Monitoring Team (S/2017/409) in May 2017. It follows an offer to the Taliban of peace talks by the President of Afghanistan, Ashraf Ghani, during the Kabul Process conference in February 2018, in which the President proposed that the group be recognized as a legitimate political party if it committed to ceasing attacks and to negotiating. At the time of preparation of the present report, the Taliban had yet to make a clear official response, suggesting there may be internal debates as to next steps. Optimism for peace negotiations remains limited, however, with expectations that the 2018 fighting season will be at least as bloody as that of 2017. The fighting strength of the Taliban has held up, and they continue to obtain new weapons and military technology. International military efforts and the increase in the number and capabilities of Afghan government forces have, however, affected Taliban tactics.

Al-Qaida remains closely allied with and embedded within the Taliban. The Taliban provide an umbrella group and operating space for about 20 terrorist groups broadly aligned with Al-Qaida and Taliban objectives. Many of these militants in Afghanistan were displaced by security operations in the tribal areas of Pakistan. Collectively, they add numbers, capability and expertise to the Taliban and often provide training. Islamic State in Iraq and the Levant (ISIL) (listed as Al-Qaida in Iraq (QDe.115)) is the exception in this respect; its relationship with the Taliban is mainly adversarial. The total number of foreign terrorist fighters in Afghanistan with all terrorist groups (including ISIL) is estimated at 10,000 to 15,000.

Total opium production and Taliban income from the narcotics trade increased dramatically during 2017. This was related to an unprecedented increase in areas under opium poppy cultivation in Afghanistan, the introduction of a new strain of poppy capable of yielding more frequent harvests and the ability of the Taliban to effectively control all stages of production. The Taliban also profit from illegal mining and extortion of the population in areas under their control, which means that their overall capacity to pay fighters and sustain a large-scale insurgency is increasing.

In 2017, ISIL suffered many casualties but continued to grow gradually in overall numbers. It held on to reduced territory in its main stronghold, Afghanistan's eastern region, where it is reported to be balancing its forces to be less concentrated in Nangarhar Province and more concentrated in Kunar Province. It was also able to establish presences in many other provinces across the country. A breakaway Taliban faction declared for ISIL in Jowzjan Province in the north, where the presence of ethnic Central Asian supporters of ISIL is a concern for the States of the region. The impact of ISIL has been in the form of mass casualty attacks, mainly in Kabul, against Afghan government and Shiite targets. It has continued to receive financial support from the ISIL core. Its foreign terrorist fighters are mostly from the immediate region; however, veterans from Iraq and the Syrian Arab Republic may now account for 10 per cent of the ISIL numbers in Afghanistan.

The 1988 sanctions regime remains underutilized, with no new listings having occurred during the reporting period. No exemptions have been sought for travel by listed individuals, which is an area worth focusing on in the context of the Kabul Process for Peace and Security Cooperation.

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I. Status of the Taliban

A. Status of the Taliban leadership

1. Several interlocutors of the Monitoring Team reported internal dissent among senior Taliban over what kind of formulated response should be presented to the offer of peace talks put forward by President Ghani in late February, at the second meeting of the Kabul Process for Peace and Security Cooperation.[1] These interlocutors stated that a body of senior Taliban leadership figures may be positively inclined towards peace rather than continued conflict, even without reference to the offer by President Ghani of peace talks without preconditions.

2. A press release issued on 11 April 2018, allegedly sent by the Taliban shadow governor for Helmand Province, Abdul Rahim Manan (also known as Mullah Manan, not listed), although its origin is still contested, criticized the leadership and policies of Haibatullah Akhundzada as being hypocritical and causing alienation among the local population. There was additional dissent related to reported deepening relationships with the Islamic Republic of Iran and other States, which many Taliban see as contrary to any spirit of Islamic jihad.

3. Other issues within the group included friction relating to finances, particularly poppy-derived finances, and overall allocation of resources. Taliban field commanders, most notably in the southern provinces, were assessed as increasingly reluctant to provide locally raised taxes to their leadership, who were seen as failing to involve those commanders engaged in the actual fighting in any level of consultation. One interlocutor stated that the head of the Taliban military commission, Mohammad Ibrahim Sardar (not listed) had personally relocated to Helmand to assist with operations. He was said to be staying there in sympathy with the views of local commanders in the field, including Abdul Qayyum Zakir (also known as Mullah Zakir Qayyum, not listed), who had expressed similar dissatisfaction.

4. Possibly in response to such criticism, the Taliban had reportedly undertaken a restructuring and made numerous appointments to senior leadership positions inside Afghanistan, which were described as the removal of the older generation in favour of younger Taliban leaders. According to the same interlocutors, the provincial shadow and deputy shadow governors, along with the provincial military commanders, were all replaced in the Provinces of Bamyan, Baghlan, Kabul, Kapisa, Kunar, Laghman, Parwan, Samangan, Takhar and Uruzgan. Ousted individuals were reportedly removed owing to complaints from rank and file Taliban concerning deficiencies in logistical and financial support. Others stated that the same type of restructuring was simultaneously taking place within the Haqqani Network (TAe.012), with new Taliban provincial shadow governor appointments in Logar, Khost, Paktiya and Parwan Provinces all reportedly being given to Haqqani Network (TAe.012) individuals.

5. Contrary to some information from the beginning of 2017, there was no reporting of any relocation of the Taliban leadership council into Afghanistan. It was believed that senior Taliban figures Mohammad Ibrahim Sardar (not listed) and Mullah Gul Agha Ishakzai[2] (TAi.147) visited Helmand Province on a regular basis. Also, some interlocutors acknowledged the movement of certain mid-level Taliban commanders from abroad to areas of Helmand and Kandahar.

[1] The first Kabul Process meeting was held on 6 June 2017. The aim is to establish an Afghan-led peace process in cooperation with regional States and key members of the international community.

[2] Mullah Gul Agha Ishakzai (TAi.147) serves as the head of the Taliban financial commission and previously served as principle finance officer to Mullah Omar (TAi.004).

6. The military operational capacity of the Taliban inside Afghanistan does not appear to have been weakened by any disputes within the leadership. According to the majority of interlocutors, however, the reinforced military presence of the United States of America, particularly with regard to close air support of Afghan ground forces, has had a significant operational impact on the Taliban's campaign.

7. Whereas the Taliban were commonly viewed as having momentum toward the end of the 2017 fighting season, combined military operations against the Taliban by Afghan National Defence and Security Forces and international military forces have forced a change of Taliban tactics from large-scale mass assaults to smaller hit-and-run tactics. This shift was assessed to be the result of air strikes that led to high casualty rates of Taliban fighters when massed in open and exposed areas.[3] There has been no recent repetition of military operations as ambitious as the taking of Kunduz during the 2016 fighting season.

8. Many interlocutors described a recent increase in Taliban asymmetric high-profile attacks in the country as a reaction to setbacks from repeated air and drone strikes, night raids and the successful targeting of Taliban commanders in the field. High-profile attacks had been carried out in frustration, but such attacks were, nevertheless, well prepared by "specialized advisers", and they helped to boost morale within the Taliban ranks.

9. Security reports from Afghan sources suggested that the leadership council had directed ground forces inside Afghanistan to divert from fighting in the open, owing to the threat of air strikes, and to take shelter within local populations, either to avoid air strikes or to provoke collateral damage that could be used as propaganda by the Taliban against Afghan and international military forces.

B. Expectations for the 2018 fighting season

10. The Taliban announced the beginning of the new fighting season on 25 April. All interlocutors of the Monitoring Team expected 2018 to be a challenging fighting season, and certainly no easier than 2017. Violence was not expected to lessen even if dialogue materialized between the Government of Afghanistan and the Taliban. There was, at best, an expectation of a bloody fighting season with negotiations taking place in parallel.

11. The nature of, and prospects for, the 2018 fighting season were deemed dependent upon the continued support of Afghan forces by the international military forces, and particularly the United States. Interlocutors were confident that the ability of the Taliban to take and hold additional territory had been checked, while the Afghan National Army and Afghan Air Force were growing in capability and experience. Many interlocutors still spoke of deficiencies in logistical supply and the effects of corruption, which hampered military efforts and depleted morale, but there was also a sense of confidence and determination among security officials. Interlocutors repeatedly spoke of "a big turnaround" in fighting taking place between October 2017 and March 2018, a swing that placed the Afghan National Defence and Security Forces in an offensive mood and posture.

12. Afghan officials indicated that the Afghan Air Force continued to develop and would soon include new capabilities such as the AC-208 aircraft, which would provide it with an organic intelligence surveillance and reconnaissance capability. The Afghan Air Force would also acquire 159 new UH-60 Black Hawk helicopters and additional A-29 Super Tucano and MD-530 Cayuse air assets. Furthermore, it

[3] For example, one Member State referred to a single incident in Herat Province where approximately 350 Taliban were caught in the open and killed.

would more than double the size of its fleet by 2023.[4] Meanwhile, according to the Afghan Ministry of Defence, 4,000 newly trained Afghan special forces were due to deploy at the end of April, with the intention of allowing regular Afghan forces the ability to conduct more offensive operations, while also providing enough boots on the ground to hold territory. Interlocutors believed that continued close air support from United States[5] and North Atlantic Treaty Organization (NATO) forces would make it less likely that the Taliban would be able to take and hold any significant new territory.

13. The Taliban Head of Intelligence for the Southern Region, Mullah Shirin (also known as Mawlawi Shirin, not listed),[6] reportedly entered Kandahar Province at the beginning of March to galvanize Taliban forces and oversee a change in battlefield tactics. These reportedly involved a return to asymmetric warfare and more traditional hit-and-run guerrilla attacks to avoid air strikes and heavy casualties by staying in small groups and keeping constantly mobile. The use of civilian (non-combatant) housing for temporary shelter was stated to be a Taliban directive to field commanders in order, as noted above, to avoid the possibility of air strikes and to capitalize on the propaganda value in cases in which civilian casualties were incurred as a result.

14. The Taliban were reported to be in the process of preparing lines of logistical supply and support in anticipation of the new spring offensive, as they enjoyed a large degree of freedom of movement. Taliban operations in 2018 against the Afghan National Defence and Security Forces and international military forces would likely combine an acceleration of small-scale unit attacks, suicide attacks and targeted killings. Unlike in the fighting seasons in 2016 and parts of the 2017, it was likely that there would be fewer large-scale assaults by Taliban forces.

15. In summary, interlocutors suggested that the Taliban and the Afghan National Defence and Security Forces were equally prepared for the upcoming fighting season. One particular concern voiced by officials of the Afghan National Defence and Security Forces related to security preparations for elections. Many believed that it would be difficult to fight the Taliban and secure elections at the same time.[7]

16. The number of Taliban members has remained consistent since the eighth report of the Monitoring Team (S/2017/409, para. 7). Estimates vary widely among Member State interlocutors, as well as among Afghan interlocutors, ranging from 25,000 to an upper estimate of 95,000. It is likely that these varying estimates result from the different methods by which the respective interlocutors count fighters and facilitators and whether they include fighters from other insurgency groups operating inside Afghanistan in the figures. In the assessment of the Monitoring Team, average seasonal numbers of between 45,000 and 65,000 still appear to be a logical estimate. By all reports and indications presented to the Monitoring Team, it does not appear that the Taliban are struggling with respect to recruitment, funding, weapons or ammunition.

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[4] The capabilities of the Afghan Air Force continued to advance with the release of its first GBU-28 laser-guided bomb against Taliban targets in March.

[5] On 7 February 2018, United States Central Command officially designated the fight against the Taliban as its "main effort" and began shifting combat and intelligence-gathering air assets to Afghanistan (see www.rferl.org/a/afghanistan-us-coalition-air-forces-taliban-is/29026579.html).

[6] In 2018, UNAMA reported "Mawlawi" Shirin as a Pashtun Alizai member of the senior Taliban leadership from the Quetta shura and as Taliban Head of Intelligence for the South and Southwestern Provinces. Shirin previously served as a close protection officer for former Taliban leader Mullah Mohammed Omar (TAi.004).

[7] As of April 2018, Taliban (and ISIL) intimidation campaigns and attacks directed at voter registration had already begun.

17. Most Taliban forces remained in Afghanistan over the winter season, as fighting did not fully abate at any stage. Meanwhile, Afghan refugee camps were reported by the interlocutors of the Monitoring Team to be targets for Taliban recruitment.

18. While control of 30 to 40 per cent of Afghan territory was contested between the Taliban and government forces, 10 to 13 districts were reported to be under full Taliban control.[8] One Member State estimated that the Taliban enjoyed full (uncontested) control of 40 per cent of Afghan territory, while the Collective Security Treaty Organization assessed that approximately half of the Afghan population (15 million) were living in areas where the Taliban were active. Interlocutors noted, however, that the stated goal of the Taliban 2017 fighting season (dubbed "Operation Mansouri" after deceased former Taliban leader Akhtar Mohammad Mansour Shah Mohammed (TAi.011)) of capturing a provincial capital had not been realized.

C. Taliban and Al-Qaida

19. In the assessment of the Afghan interlocutors of the Monitoring Team, the Taliban continue to be the main accommodating force for the overwhelming majority of foreign terrorist groups operating in Afghanistan, with the exception of ISIL. The Taliban cooperate and retain strong links with Al-Qaida (QDe.004), Al-Qaida in the Indian Subcontinent, the Haqqani Network (TAe.012),[9] Lashkar-e-Tayyiba (QDe.118), the Islamic Movement of Uzbekistan (QDe.010), the East Turkistan Islamic Movement (QDe.088) and more than a dozen other regionally and globally focused groups. Foreign militants operating under the protection of the Taliban umbrella frequently provide military expertise and added capability. In return, these groups are provided safe havens and the ability to move forward their own individual militant agendas.

20. Interlocutors reported a greater presence of Al-Qaida compared with the last reporting period (see S/2017/409), during which the number of Al-Qaida members in Afghanistan had been estimated at approximately 100 to 120. Updated reporting from 2018 suggests that the group has increased its presence in Afghanistan to between 265 and 400, not including affiliate groups such as the East Turkistan Islamic Movement (QDe.088), the Islamic Movement of Uzbekistan (QDe.010) or Lashkar-e-Tayyiba (QDe.118). Al-Qaida increases were most noticeable in Badakhshan, Kunar, Nangarhar and Nuristan Provinces, and were assessed by interlocutors as being directly related to the displacement of militants from the tribal areas of Pakistan. This is consistent with the analysis of other regional Member States. Afghan officials reported that the Al-Qaida leader in Kunar and Nangarhar was a national of Saudi Arabia and former adviser to Usama bin Laden by the name of Abu Akhund (not listed). Akhund is normally located outside the country, but is reported to travel regularly to the eastern region of Afghanistan. The 35-year-old son of Usama bin Laden, Abdullah bin Laden (not listed), was reported to have led a group of 115 Al-Qaida fighters from abroad, via Paktiya and Kunar Provinces, into Warduj district of Badakhshan, where the group was intent on establishing a presence.

21. In the south, Al-Qaida was reported to be present in Helmand, Kandahar and Uruzgan Provinces, and, more specifically, in the Khak-e-Afghan and Day Chopan districts of Zabul Province. These two districts were reportedly used as both safe haven and training camp locations associated with foreign terrorist fighters. Al-Qaida

[8] The Special Inspector General for Afghanistan Reconstruction reported in January 2018 that 13 districts were under insurgent control, with 14.3 per cent of the country's districts reportedly under either direct insurgent control or influence. A British Broadcasting Corporation (BBC) World Service report on 31 January 2018 suggested that the Taliban were currently openly active in 70 per cent of the Afghan territory.

[9] The Haqqani Network is officially part of the Taliban.

was said to be active in other parts of the southern region via its affiliate, Lashkar-e-Tayyiba. It was reported to the Monitoring Team that the Taliban continued to facilitate the passage of groups associated with Al-Qaida from abroad, through Zabul and Uruzgan Provinces and into Helmand.

22. In early December 2017, United States forces announced the death of Omar bin Khatab (also known as Omar Mansoor, not listed), whom United States officials described as the second-most important leader for Al-Qaida in the Indian Subcontinent (Al-Qaida's most recently established affiliate) and the highest-ranking Al-Qaida leader to be killed in Afghanistan since 2001. Khatab was reportedly killed in Ghazni Province during a combined United States-Afghan military operation.[10] In a separate press release, the National Directorate of Security of Afghanistan indicated that the joint operation was one of a number of operations against Al-Qaida in Ghazni, Paktiya and Zabul Provinces that had resulted in the deaths of 80 Al-Qaida members and the capture of a further 27.[11]

23. Following a call by Al-Qaida leader Ayman Muhammed Rabi al-Zawahiri (QDi.006) in August 2016 for Muslims to rally around the Taliban and reject ISIL, the rhetorical war between Al-Qaida and ISIL in Afghanistan has calmed down. Al-Qaida continues, however, to identify with and to broadcast its links to the Taliban. The spokesperson for Al-Qaida in the Indian Subcontinent gave an interview in Urdu on 24 November 2017, in which he identified Al-Qaida in the Indian Subcontinent as "an extension of the blessed campaign of the Islamic Emirate of Afghanistan" and stated that the group's priority was to "defend and empower the Islamic Emirate of Afghanistan". Previously, on the sixteenth anniversary of the attacks of 11 September 2001, Al-Qaida in the Arabian Peninsula (QDe.129) produced a statement from its al-Malahem Media Foundation in which the group praised the "steadfastness" of the Afghan Taliban in its continued resistance to the United States in Afghanistan.

D. Taliban finances and connections to criminal organizations

24. Afghan interlocutors and figures published by the United Nations Office on Drugs and Crime (UNODC) in its *Afghanistan Opium Survey 2017* highlighted the fact that 2017 had seen an increase in the production of opium in Afghanistan by 87 per cent and an increase in the net total area under opium cultivation by 63 per cent in comparison with 2016, with both reaching new record highs. The report indicated that the area of cultivation in 2017 exceeded that of 2014 (224,000 hectares), which was previously the highest level recorded, by 104,000 hectares, or by roughly 46 per cent. Large increases were recorded in more traditional areas in the south of Afghanistan, but there were also strong increases in less traditional cultivating provinces, such as Balkh in the north, where a 481 per cent increase occurred. Helmand Province continued to be, by far, the largest area of poppy cultivation in Afghanistan, with 144,018 hectares, an increase of 63,700 hectares (or 79 per cent) compared with 2016, which corresponded to approximately one half of the overall national increase in the country. It was also noted in the UNODC report that, in contrast, only 750 hectares of opium poppy had been eradicated in 2017, demonstrating the significant imbalance in production and eradication processes. With no noticeable reduction in poppy cultivation, it seems that heavy fighting did not affect crop production or harvest, in contrast with the situation in 2016. The

[10] NATO Resolute Support Afghanistan, "Afghan and US Forces-Afghanistan kill top terrorist leaders", 5 December 2017. Available from https://rs.nato.int/news-center/press-releases/2017/afghan-and-us-forcesafghanistan-kill-top-terrorist-leaders.aspx.

[11] 1TVNews (Kabul), "Al-Qaeda top commander among 80 members killed in Afghanistan", 5 December 2017. Available from www.1tvnews.af/en/news/afghanistan/32423-al-qaeda-top-commander-among-80-members-killed-in-afghanistan-.

Collective Security Treaty Organization noted that the production of raw opium in Afghanistan in 2017 was more than 40 times higher than it was in 2001 and now accounted for 90 per cent of all illegal production in the world.

25. While there was a modest reduction in the average farm-gate price for both fresh and dry opium by weight, total opium production rose in 2017 to an estimated 8,000–10,000 metric tons, compared with the previous year's estimated potential production of 4,000–5,600 metric tons. More than 90 per cent of the narcotics production in Afghanistan continues to occur within Taliban-controlled areas. As noted by the Monitoring Team in its eighth report, the Taliban currently take part directly in the production, processing and trafficking of virtually all heroin being produced and exported from Afghanistan, rather than simply taxing those activities (S/2017/409, para. 20). With the marked increase in production and value, the Taliban income generated from the narcotics trade is, therefore, also estimated to have risen significantly in 2017.

26. While it is difficult to draw immediate conclusions, one reason that opium production rose more dramatically than the area under cultivation was said to be the introduction of a new strain of poppy that is capable of three yields per year (compared with two previously). What is apparent is that many of the provinces with the most dramatic increases in cultivation are those in which Taliban activity undermines security. Apart from this fact, it is difficult to ascertain from reports to the Monitoring Team any one reason for the noteworthy 2017 increase in opium poppy cultivation. There were probably a number of factors involved, including lack of government control, corruption, continued advances in agricultural technology and the appeal of such a lucrative crop to many impoverished farmers.

27. Since November 2017, United States forces in Afghanistan and the NATO Resolute Support Mission have begun targeting drug laboratories in the south of Afghanistan, where opium is processed into heroin, in an effort to disrupt and destroy the ability of the Taliban to benefit from financing from narcotics. Key narcotics distribution hubs were targeted, reportedly in the Baramcha, Band-i-Timor, Ghorak, Kajaki, Musa Qal'ah and Sangin districts within Kandahar and Helmand Provinces. Various Afghan interlocutors stated to the Monitoring Team that between 25 and 33 processing laboratories had been destroyed during the first month of the campaign, with lost revenue to the Taliban amounting to $33 million to $40 million.

28. It was also reported to the Monitoring Team that interdictions of chemical precursors during June and July 2017 by elements of the Special Operations Joint Task Force-Afghanistan had made some quantifiable impact, notably in acetic anhydride availability, which had roughly doubled in price to $2,000 per litre owing to seizures of the chemical. During September, however, the Monitoring Team received information that the price had dropped once again, indicating that it was likely that shipments of the chemical had recently arrived, reducing the imbalance of demand over supply. Precursor chemicals are a vital choke point in the opium/heroin business because it is only viable to export refined heroin (it takes about 10 kg of opium to produce 1 kg of heroin). The precursors also have a short shelf-life (up to 40 days), which necessitates established channels for regular deliveries and offers Afghan and international counter-narcotic projects options for disruption.

29. While measures such as the deliberate targeting of heroin processing labs and chemical precursor stocks no doubt serve to damage some elements of Taliban income revenue, it remains to be seen how effective such actions are in the long term, as the opium economy of Afghanistan has previously proved resilient. Afghan officials in the south reported to the Monitoring Team that processing labs could be quickly set up again in a matter of days, and that, furthermore, the Taliban had taken effective actions to counter the threat posed by air strikes by moving processing laboratories

into populated market areas, where the ramifications of any collateral damage from further air strikes would be likely to serve as a deterrent to Afghan and international forces.

30. With respect to the export of narcotics, Afghan interlocutors stated to the Monitoring Team that the four main channels, based on volume, were as follows: (a) the Balkans route, with 40 per cent of the narcotics exported; (b) the Indian Ocean route, with 30 per cent; (c) the northern route, with 25 per cent; and (d) narcotics exports via international airports within Afghanistan, with 5 per cent. In the past year, a number of new seizures of Afghan heroin have been reported in both Canada and the United States, which are markets that have been traditionally supplied by Mexican heroin production.[12]

31. All interlocutors remained in agreement that involvement in the international narcotics trade continued to represent the most significant source of Taliban income. One Member State estimated that total Taliban income from narcotics during 2016–2017 amounted to approximately $400 million, which is the amount also estimated by the Monitoring Team in its seventh report (see S/2016/842, para. 15). In the context of current overall increases in poppy cultivation and the fact that the Taliban now control all aspects of production, it is likely that the amount is higher.

32. The Monitoring Team has been highlighting Taliban asset generation based on the illegal extraction of natural resources and extortion from commercial mining operations in Afghanistan in its reports since the end of 2014 and has presented a range of recommendations on the issue (see S/2015/79, paras. 22–30; S/2015/648, paras. 42–47; and S/2016/842, paras. 49–54). The Monitoring Team will remain in regular contact with the Afghan authorities, particularly the Ministry of Mines and Petroleum, to monitor and update the situation regarding the illicit extraction of mineral resources to generate income for the Taliban and ISIL. One regional Member State reported having disrupted Taliban smuggling of onyx marble, phosphate and pine nuts from Afghanistan.

33. Interlocutors continued to report to the Monitoring Team that a further source of income for the Taliban remained donations from wealthy sponsors in the Middle East. The Gulf region also remains important to the Taliban as a location where drug revenue can be laundered through legal structures belonging to local Afghan expatriates.

34. **The Monitoring Team recommends that the Committee write to all Member States reminding them of the Taliban's strategic significance to the world supply of opium (and therefore heroin) and of the capacity that exists and is developing to analyse drug consignments and pinpoint their origin, and encouraging Member States worldwide that have information that credibly links heroin dealers to supplies originating from Taliban-controlled areas of Afghanistan to consider putting forward those individuals (regardless of nationality or location) for listing under the 1988 (2011) sanctions regime.**

35. **The Monitoring Team further recommends that the Committee write to all Member States drawing attention to the importance of short shelf-life chemical precursors to the production of heroin from opium, and encouraging them to**

[12] See Nate Gartrell, "DEA busts multi-million dollar Afghanistan heroin smuggling ring with Bay Area connection; defendant said to have Taliban ties", *East Bay Times* (Oakland), 2 April 2018 (available from www.eastbaytimes.com/2018/04/02/dea-busts-multi-million-dollar-afghanistan-heroin-smuggling-ring-defendant-claimed-to-have-taliban-ties/); and "Most of heroin consumed in Canada is of Afghan origin", *Asian Pacific Post*, 22 August 2017 (available from www.asianpacificpost.com/article/8057-most-heroin-consumed-canada-afghan-origin.html).

enhance measures to control the production, distribution and export of such chemicals to Afghanistan.

II. Reconciliation

A. Gulbuddin Hekmatyar and Hizb-i Islami

36. Following his delisting from the ISIL (Da'esh) and Al-Qaida sanctions list in February 2017,[13] Gulbuddin Hekmatyar returned to Afghanistan in early May 2017. Since taking up residency in Kabul, Hekmatyar has been politically active in supporting the peace process and democratic elections, but nonetheless remains a divisive figure to many Afghans. Afghan officials reported to the Monitoring Team that Hekmatyar is likely to run in future presidential elections, although he has yet to unite the various factions of Hizb-i-Islami.

37. The Government of Afghanistan and Hekmatyar himself have repeatedly put forward his case and that of his party as a template framework for any potential reconciliation process with the Taliban. At a Hizb-i Islami party congress in November, Hekmatyar stated that the party would support the Taliban and their demands once they had agreed to join the reconciliation process. Hekmatyar has also made claims that he is establishing himself as an intermediary with the Taliban leader, Haibatullah Akhundzada. He has recently echoed President Ghani's call for the Taliban to participate in the parliamentary elections scheduled for late October. Hekmatyar has emphasized that the reconciliation strategy would be more attractive to the Taliban if the Government fully undertook its reconciliation obligations towards Hizb-i Islami Gu'buddin, such as concluding the release of Hizb-i Islami Gulbuddin prisoners from government incarceration.[14]

B. Taliban

38. Afghan interlocutors of the Monitoring Team reported that they saw no deliberate movement of the Taliban towards reconciliation following the offer of unconditional talks from President Ghani in late February, but most admitted that it was early to expect a response, as the Taliban would need time to ponder the offer and its implications. One interlocutor stated that intelligence from "across the border" had signalled that "the majority of them [the Taliban] are for it, a minority are still thinking". It was also reported to the Monitoring Team that winter season had seen a spike in Taliban interest in the peace process, "more so than in the past 17 years".

39. Most interlocutors of the Monitoring Team were of the opinion that a positive response from the Taliban to President Ghani's offer was unlikely. Officials believed that there were various factions within the Taliban movement, and that some might be inclined to act differently, but that most Taliban fighters had little trust in the Government's readiness to accommodate their requirements.

40. Efforts of the Afghan High Peace Council have increased following the offer of the President, with the Council attempting to apply religious pressure on the Taliban leadership to negotiate. On 14 April, the Head of the Secretariat of the Council, Mohammad Akram Khpalwak, addressed the Wolesi Jirga (the lower house of the National Assembly) and offered that domestic, regional and international pressure

[13] Hekmatyar remains on a number of Member States' sanctions lists, including the United States Office of Foreign Assets Control list.

[14] Hizb-i-Islami has stated that 91 of its members remain in prison. The issue of prisoner release and land distribution to the group remain controversial.

would be needed to compel the Taliban to participate in peace talks. In line with this, the Council has worked with the Ulama Councils of Indonesia and Pakistan towards the holding of a trilateral conference, which religious scholars from all three countries would attend, in late April to support the peace process. The Secretary of the Ulama Council of Indonesia made public reference to representatives from the Taliban being expected to attend. The Taliban issued a statement on 10 March 2018, however, that urged Islamic scholars to boycott the Indonesian summit convened with the Council.[15]

III. Islamic State in Iraq and the Levant in Afghanistan

41. Afghan interlocutors and Member States reported that, during 2017, ISIL persistently tried to expand its presence in Afghanistan. It currently maintains an active presence in the Provinces of Kunar and Nangarhar in the east, while an ISIL group has appeared in Jowzjan Province in the north. Afghan interlocutors also reported that ISIL had attempted to establish small "sleeper cells" for further desired expansion into Ghazni, Kunduz, Laghman, Logar and Uruzgan Provinces.

42. The overall number of ISIL members in the country has been estimated at between 1,500 and 6,000. The Monitoring Team's estimate, based on a cluster of Member States' assessments, is approximately 3,500 to 4,000, while Afghan estimates suggest that 600 to 1000 of these are in the north. Afghan officials reported that the overall ISIL leader in Afghanistan was still Abu Sayed Bajauri[16] and that the majority of the members of ISIL, particularly its leaders, were former members of Tehrik-e-Taliban Pakistan (QDe.132).

43. Afghan interlocutors stated that 1,800 Islamic State in Iraq and the Levant-Khorasan Province (ISIL-KP) fighters had been killed in combined Afghan National Defence and Security Forces and international military forces operations in the past 12 months in Kunar and Nangarhar Provinces. In 2017, operations of the Afghan National Defence and Security Forces against ISIL in Kunar and Nangarhar (Operation Hamza) had succeeded in significantly reducing the ISIL presence in the Achin and Kot districts. Four company-sized forward operating bases, two in each district, were subsequently established to maintain the presence of Afghan National Defence and Security Forces. Afghan officials reported that, as a consequence, the ISIL presence in those two districts was now greatly reduced. Despite this, ISIL has managed to maintain pockets in southern Nangarhar areas that straddle the Spin Ghar mountain range. During the latter part of 2017, the group launched operations against Taliban forces, pressing westwards, with the stated objective of reaching the Azra district of Logar Province and expanding north to the Surobi-Jalalabad highway, where they have established a toehold in the Alingar district of Laghman Province. Similar ISIL attempts to take strategic Taliban positions occurred during May 2017 in the Suleiman Khel and Tora Bora areas.

44. ISIL internal fighting in Nangarhar Province was reported to be stressing the group. The origin of the conflict concerned access to local resources in the district of Achin and involved ISIL factions from Kunar fighting with ISIL factions from Orakzai Agency based in Nangarhar. In-fighting over resources may suggest that the group is not as well funded as previously believed. Afghan interlocutors also reported

[15] "Afghan Taliban urge religious scholars to boycott peace", Reuters, 10 March 2018. Available from www.reuters.com/article/us-afghanistan-taliban/afghan-taliban-urge-religious-scholars-to-boycott-peace-conference-idUSKCN1GM0CI.

[16] The first ISIL-KP leader, Hafiz Sayed Khan, was killed in July 2016, his successor, Abdul Hasib Logari, in April 2017, and the third leader of the group, Abu Sayed, in July 2017.

clashes between elements of ISIL and Lashkar-e-Islam (not listed) in the districts of Achin and Nazyan in Nangarhar, which were also believed to be resource-related.

45. In spite of, or possibly owing to, battlefield setbacks, there was a marked increase in high-profile attacks claimed by ISIL, mainly against Shiite, government and foreign-affiliated targets. Attacks against Shiites (Hazara) included the killing of over 50 Hazara in Sari Pul Province on 19 August and suicide attacks against the Shiite Tebyan Cultural Centre in Kabul on 28 December, a Shiite shrine during Nowruz celebrations on 21 March and the Nabi Akram Shiite mosque in Herat on 25 March, and a further suicide attack against a voter registration centre in a predominantly Shiite neighbourhood of Kabul on 22 April that killed 70 or more persons. The group claimed responsibility for an attack on 25 January against the offices of Save the Children in Jalalabad directed at "British and Swedish institutes". Two further notable attacks occurred on 7 March, when the group claimed responsibility for the targeted killing of the local Minister of Haj and Religious Affairs, Haji Nasir Haqqani, in Jalalabad by a suicide bomber,[17] and on 19 March, when a motorcycle-borne improvised explosive device detonated outside a Jalalabad sports stadium where Gulbuddin Hekmatyar was in the process of finishing a pro-government political rally for supporters.

46. Afghan special forces, conducting a night raid at the end of February, captured the leader of ISIL in Jalalabad, Qari Amanullah, along with his brother, Mullah Rauf. Confiscated mobile phones showed the group using WhatsApp and Viber social-media applications to communicate. Amanullah had been affiliated with Al-Qaida until moving to ISIL in 2016 with 20 other individuals. He was appointed head of ISIL operations for Jalalabad in September 2017. His nephew was said to be Mullah Fazal Kareem, a member of the ISIL "Kunar shura" and recruiter for the group. The family had previously been with Al-Qaida under the leadership of Abu Suleiman, an Al-Qaida leader of Arab origin, who is now based in the Darah-ye Pech district of Kunar Province.

47. ISIL command and control remains within the southern belt of Nangarhar districts, with ISIL Kunar and other areas subordinate to it. There was, however, reporting that, owing to losses sustained in fighting with Afghan National Defence and Security Forces and international military forces, as well as with the Taliban, ISIL was in the process of relocating most of its fighters and headquarters to Kunar Province. Any further ISIL influx into Kunar was expected to lead to more fighting with local Taliban forces.

48. With regard to Kunar, Afghan officials reported that the Digal Valley area of the Chapa Dara district was becoming an ISIL stronghold. ISIL was also reported to be in the Waygal Valley area and in remote areas of the Chapa Dara and Shorak districts, which were cited as locations for ISIL training camps. Kunar has traditionally had a large radical population, and Afghan interlocutors described it as unsurprising that ISIL had decided to relocate there. One interlocutor stated to the Monitoring Team that "the real ISIL in Afghanistan were not from Iraq or Syria, but from Kunar".[18]

49. A new development for ISIL in Afghanistan has been the establishment of an affiliate group in the northern Province of Jowzjan led by an ethnic Uzbek, Qari Hekmatullah (also known as Qari Hekmat). Hekmatullah, a dissident Taliban commander and former Taliban district shadow governor for his home district of Darzab in Jowzjan, aligned himself with ISIL and began turning against his former Taliban colleagues at the beginning of October 2017. Hekmatullah's ISIL group

[17] Haji Nasir Haqqani had become an outspoken critic of ISIL in recent public addresses.

[18] A previous Afghan interlocutor reporting to the Monitoring Team has reported that the majority of the members of ISIL from Afghanistan originated from Kunar Province.

reportedly consisted of approximately 350 former Taliban fighters, who quickly established control in areas of Jowzjan bordering Faryab and Sari Pul Provinces, where both the Taliban and the Government of Afghanistan lack control. On 9 April, NATO Resolute Support Mission statements[19] indicated that Hekmatullah and three of his bodyguards had been killed during an air strike in the Bal Chiragh district of Faryab Province. Mawlawi Habib ul-Rahman was subsequently reported to have been named as Hekmatullah's successor. Like Hekmatullah, ul-Rahman is both an ethnic Uzbek and a former local Taliban commander.

50. In March, a pro-ISIL group, al-Qastantiyyah Foundation, launched a media campaign on its Telegram channel aimed at promoting ISIL mobilization to Jowzjan and Nangarhar in Afghanistan. This has helped fuel speculation concerning potential relocation of foreign terrorist fighters from the ISIL core in Iraq and the Syrian Arab Republic to Afghanistan. On 12 April, the Afghan Ministry of Defence Spokesperson announced that a French national had been killed with ISIL fighters in Jowzjan by Afghan forces.[20]

51. The number of ISIL relocations from Iraq and the Syrian Arab Republic has remained small. Afghan authorities identified 67 ISIL core relocators arriving in eastern Afghanistan between December 2017 and March 2018. Relocators were said to be "travelling under the flag of Al-Qaida" in order to ease passage, leading some interlocutors to view this as a sign of growing cooperation between the two groups. The total number of ISIL foreign terrorist fighters in Afghanistan who have previously fought in the Iraq and Syrian Arab Republic conflict zone is still believed to be 300 to 400 in total.

52. ISIL has both local and external sources of income. Local ISIL revenue consists of taxation on illicit timber and mineral exploitation by organized criminal networks, extortion and kidnapping for ransom. Outside sources include donations from Middle Eastern countries via hawala and courier networks.

53. There was still no evidence of ISIL profiting directly from the trade in narcotics, although some interlocutors stated that the group actively taxed criminal networks engaged in narcotics smuggling. A notable exception, however, may be the case of Qari Hekmatullah's ISIL branch in Jowzjan. During his time as a Taliban commander, Hekmatullah presided over a large increase in poppy production in Jowzjan, most notably in the districts of Darzab and Qush Tepah. According to 2017 reporting by UNODC, Jowzjan had the single-largest increase in poppy cultivation of any Afghan Province in 2016–2017, at 681 per cent. In this context, it would seem that the ISIL branch in Jowzjan may be directly profiting from poppy cultivation and production. If this is confirmed, it would place Hekmatullah's ISIL branch at odds with ISIL narcotics policy elsewhere.

54. According to Afghan officials, there has been no further evidence during the reporting period of financial transactions emanating from the ISIL core to ISIL in Afghanistan, but officials admitted that such transactions could not be entirely ruled out. Interlocutors reported that wages paid to ISIL forces were currently $800 to $1,200 per month for group leaders and specialist personnel; however, the rank and file were paid much less.

55. Information provided to the Monitoring Team has highlighted the revenues derived by ISIL from illicit activities related to the timber trade in Kunar Province.

[19] NATO Resolute Support Afghanistan, "Top IS-K commander killed in northern Afghanistan", 9 April 2018. Available from www.rs.nato.int/news-center/press-releases/2018-press-releases/top-isk-commander-killed-in-northern-afghanistan.aspx.

[20] "French among Daesh fighters killed in Jawzjan", *Afghanistan Times* (Kabul), 12 April 2018. Available from http://afghanistantimes.af/french-among-daesh-fighters-killed-jawzjan/.

Afghan interlocutors stated that ISIL was believed to be earning, on average, the equivalent of approximately $85,600 per month from timber smuggling activities. ISIL generates income by renting mules to local smugglers at cost, then charging a 30 per cent tax on timber subsequently sold by smuggling networks. Timber in Kunar has traditionally been a motivating factor for the insurgency, and previous attempts by the Government of Afghanistan to regulate the industry have collapsed, leaving only an illicit economy exploited by the Taliban, and now ISIL. Local tribal elders in Kunar reported in April that donkey trains were also being used to transport ammunition and ammonium nitrate.

56. Interlocutors familiar with the mining industry doubted that large amounts of illicit funds were being generated through mineral exploitation, stating that, during two years of fighting, the heavy equipment needed to extract and transport minerals had been withdrawn by mining contractors to Jalalabad, or other areas under government control. They consequently saw no prospect for insurgents to extract or transport the large volumes and weights of minerals required to make any worthwhile profit. The Monitoring Team was informed, for example, that the most prominent mineral mined in areas of ISIL control was talc, which only brought a retail value of roughly $9.50 per metric ton. The Government was said to be losing $1.46 million per annum in revenue from those mining areas outside its control in Nangarhar. Security interlocutors still insisted on mineral extraction being a source of income for ISIL, pointing to the taxes that it levied on the various networks of smugglers who had the capacity to engage in extraction and the ability to move unmolested across lines of government and insurgent control.

IV. Foreign terrorist fighters in Afghanistan

57. The situation with regard to foreign terrorist fighters operating in Afghanistan remains largely unchanged since the Monitoring Team's previous annual report (S/2017/409). Interlocutors indicate that movement of foreign terrorist fighters into Afghanistan is a direct result of military pressure by the security forces of Pakistan,[21] combined with a lack of control by the Government of Afghanistan over areas along the border. Afghan officials, including President Ghani, have often stated that over 20 regional and international terrorist groups are currently fighting against government forces in Afghanistan, mainly in the border areas.

58. Afghan interlocutors related that the majority of foreign terrorist fighters were Pakistan nationals, chiefly Tehrik-e-Taliban Pakistan (QDe.132), who frequently crossed the border into Kunar and Nangarhar Provinces.[22] The districts of Lalpura and Ghosta in Nangarhar and Sarkano in Kunar were identified as locations where Tehrik-e-Taliban Pakistan militants (as well as other foreign terrorist fighters) had arrived. The presence of other groups reported to the Monitoring Team included Lashkar-e-Tayyiba (QDe.118), Jaish-e-Mohammed (QDe.019) and Lashkar i Jhangvi (QDe.096). These fighters were primarily located in the border districts of Kunar and Nangarhar Provinces in the east, and the Khak-e-Afghan district of Zabul Province in the south.

59. With regard to the role played by Lashkar-e-Tayyiba, the group is reported to have connections and cordial relations with the Taliban, Al-Qaida (QDe.004), the Haqqani Network (TDe.012) and ISIL simultaneously. One Afghan interlocutor

[21] Pakistan carried out Operation Zarb-e-Asb (2014–2016) to clear militants from areas of North Waziristan. A follow-up operation, Radd-ul-Fasaad, was launched in Federally Administered Tribal Areas in February 2017.

[22] The group announced the death of Tehrik-e-Taliban leader Maulana Fazlullah's (QDi.352) son, Abdullah, in an air strike on 7 March, that reportedly occurred in Kunar Province.

indicated that Lashkar-e-Tayyiba played a key role in facilitating recruitment from a network of unregistered madrasas inside Pakistan. Upon departure from madrasas, fighters proceeded to Afghanistan, where they joined existing militant groups. It was reported to the Monitoring Team that many ISIL fighters in Kunar and Nangarhar had originally been affiliated with Lashkar-e-Tayyiba, while another group of mixed Lashkar-e-Tayyiba and Jaish-e-Mohammad fighters located in the Dangam district of Kunar were under Taliban control, but also had cordial relations with ISIL forces in the area.

60. Small groups of East Turkistan Islamic Movement (QDe.088) fighters and their families were reported to be dwelling in Badakhshan (Jurm and Warduj districts), Kunar and Nangarhar Provinces. The Movement continues to be affiliated with Al-Qaida but, as with Lashkar-e-Tayyiba, has also been associated with ISIL in some areas. On 2 April 2018, the Taliban issued a statement in Arabic on its website denying claims by the Government of Afghanistan that Chinese fighters had been killed in the Jurm district of Badakhshan, declaring that the story was "completely baseless" and that "there are no nationals from other countries among the mujahideen".

61. Afghan officials stated that Jamaat-ul-Ahrar (QDe.152) had a presence of 230 to 260 fighters in the Ghosta district of Kunar and roughly 300 in the Lalpura district of Nangarhar. As with other foreign terrorist fighters, many members of Jamaat-ul-Ahrar were said to be accompanied by their families, as they had fled Pakistan security operations. On 21 October 2017, the group announced the death of its leader, Umar Khalid Khorasani (not listed), in an air strike in Afghanistan's Paktiya Province. The group subsequently appointed Khorasani's former deputy, Mawlawi Dost Mohammad (not listed) (also known as Mullah Assadullah Afridi) as the new leader of Jamaat-ul-Ahrar.

62. It was reported to the Monitoring Team that the second most prolific group of foreign terrorist fighters in Afghanistan consisted of Uzbek nationals, many of whom fell under the Islamic Movement of Uzbekistan (QDe.010). Some 120 members of the Movement affiliated with Al-Qaida had reportedly relocated from North Waziristan to join Taliban forces in Uruzgan Province under direct authorization from Haibatullah Akhundzada. Interlocutors reported that the group was considered to be ISIL-leaning, but was concealing its allegiance for fear of a Taliban backlash.[23]

63. Afghan officials reported the capture of a German national, using the name of Mullah Abdul Ahad, by Afghan National Defence and Security Forces in Helmand on 1 March 2018. Mullah Ahad was described as an improvised explosive device facilitator and military adviser to Mullah Nasir, a well-known Taliban "Red Unit" commander who was killed by Afghan forces in December 2017.

V. Sanctions implementation

A. Travel ban

64. As in past reporting periods (see S/2017/409, para. 41), the Monitoring Team continued to observe regular open-source accounts alleging the travel of individuals listed on the 1988 (2011) sanctions list, often in relation to efforts to start direct

[23] This is reminiscent of situation when some members of the Islamic Movement of Uzbekistan aligned themselves with the breakaway pro-Mullah Dadullah Taliban faction that emerged following the announcement of the death of Mullah Omar in 2015, while others pledged allegiance to ISIL. Both splinter groups clashed with mainstream Taliban loyal to Mullah Mansour and were defeated during Taliban-on-Taliban fighting in Zabul Province in November 2015.

negotiations between the Taliban movement and the Government of Afghanistan.[24] While the Monitoring Team has not received official confirmation of any of those potential violations of the travel ban by a Member State, reports of listed individuals travelling continue to demonstrate that the implementation of the travel ban remains a challenge and that it is being ignored by some Member States. In paragraphs 19 and 20 of Security Council resolution 2255 (2015), specific exemption procedures relating to the travel ban and asset freeze are outlined in case travel of a listed individual to participate in meetings in support of peace and reconciliation is deemed necessary. However, during the period under review, no such exemptions were sought.

65. **Given the momentum generated by the Kabul Process and the importance of increasing international engagement to persuade the Taliban to respond positively to it, the Monitoring Team recommends that the Committee write to all Member States highlighting the importance of using the 1988 (2011) sanctions regime to encourage and facilitate such engagement, and the requirement that any international travel by listed persons be submitted in accordance with the exemption procedures set out in paragraphs 19 and 20 of Security Council resolution 2255 (2015).**

B. Asset freeze

66. The Government of Afghanistan continues to develop the domestic, legal and regulatory system guiding the country's financial sector. In June 2017, the Financial Action Task Force removed Afghanistan from its compliance watch list, noting that the country had met its commitments in addressing deficiencies identified by Task Force in 2012. Afghanistan is, therefore, no longer subject to the global anti-money-laundering/combating the financing of terrorism compliance monitoring process of the Task Force, and will work with the Asia/Pacific Group on Money Laundering to address remaining issues.

67. During 2017, the Financial Transactions and Reports Analysis Centre of Afghanistan (FinTRACA) announced that it had increased its responses to requests for information from law enforcement agencies by 24 per cent in comparison with 2016, with a 92 per cent response rate overall. FinTRACA also signed memorandums of understanding with the Chinese Anti-Money Laundering Monitoring and Analysis Centre, the Korean Financial Intelligence Unit and the State Financial Monitoring Service of Ukraine, bringing the total number of FinTRACA memorandums of understanding to 16. Proceeding within legal frameworks, FinTRACA reportedly shared information in response to 33 requests from international financial intelligence units related to 132 investigations. In a further effort to counter terrorist financing and disrupt money laundering, FinTRACA established a database of 193 designated high-risk individuals, known as the watch list. With regard to compliance, FinTRACA reported 7.3 million afghanis (approximately $104,000) seized through fines on money service providers and banking establishments in 2017 compared with 3.2 million afghanis in 2016. The measures taken included the freezing of 91 bank accounts and the suspension of the business licences for 8 money service providers, and the revoking of a further 25.

[24] See "Afghan Taliban claim they met Pakistan officials in Islamabad", *Express Tribune* (Islamabad), 25 January 2018 (available from https://tribune.com.pk/story/1617330/3-afghan-taliban-claim-met-pakistan-officials-islamabad/), and Sami Yousafzai, "Taliban leader approved Islamabad meeting on Afghan peace talks: sources", Reuters, 17 January 2018 (available from www.reuters.com/article/us-pakistan-taliban/taliban-leader-approved-islamabad-meeting-on-afghan-peace-talks-sources-idUSKBN1F623B).

68. In terms of Security Council resolution 1267 (1999) and the 1988 (2011) sanctions, Afghanistan created a database of Security Council resolutions in Dari and Pashto, which resulted in 23 automated notifications being released to law enforcement and public and private sector bodies. Of these, 22 related to resolution 1267 (1999) and 1 to resolution 1988 (2011).[25]

C. Arms embargo

1. Improvised explosive devices

69. During the reporting period, there was no significant reporting to the Monitoring Team of changes to the design or use of improvised explosive devices by the Taliban, ISIL or other militant groups in Afghanistan. One possible exception to this has been the use of captured Afghan National Defence and Security Forces Humvee (high-mobility multipurpose wheeled vehicle) armoured vehicles by the Taliban for vehicle-borne improvised explosive device attacks against Afghan National Defence and Security Forces installations. The armoured Humvees are able to carry significantly heavier payloads of explosives and were particularly effective in complex attacks staged by the Taliban on 16, 17 and 19 October against Afghan National Defence and Security Forces targets in Ghazni, Paktiya and Kandahar Provinces, leading to the reported deaths of 123 members of the Afghan National Defence and Security Forces.[26]

70. Previous statements to the Monitoring Team by Afghan and international officials highlighting gradual reductions in the use of improvised explosive devices (see S/2017/409, para. 46) have subsequently been borne out by reporting by the United Nations Assistance Mission in Afghanistan (UNAMA) for 2017, which shows an overall decrease in civilian casualties resulting from traditional improvised explosive device platforms (radio-controlled, pressure plate and magnetic improvised explosive devices) of 14 per cent compared with 2016, representing a continued reduction in related casualties since 2015. However, UNAMA also reported an increase of 17 per cent in suicide attacks involving the use of explosive vests and vehicle-borne improvised explosive devices, which resulted in 605 deaths and 1,690 injuries.[27] The most shocking example of this was the vehicle-borne improvised explosive device which detonated in the vicinity of the German Embassy in Kabul on 1 May during rush-hour traffic, killing 92 and injuring 491. As many interlocutors of the Monitoring Team reported a change of tactics by the Taliban from more conventional military operations to hit-and-run guerrilla techniques, the downward trend in improvised explosive device attacks may reverse as insurgents return to intensified emplacement of such devices in response to Afghan National Defence and Security Forces offensive military action.

71. Afghan officials reported to the Monitoring Team increased usage of cyclotrimethylenetrinitramine (RDX) military grade explosives in high profile attacks that took place during the reporting period. Interlocutors reported that military grade explosives used by the Taliban and ISIL were from captured Afghan National Defence and Security Forces stocks, but that RDX was also being supplied covertly by regional

[25] Da Afghanistan Bank Financial Intelligence Unit, *Annual Report 2017*.

[26] For an overview, see Thomas Ruttig, "The 'humvee bomb' series: the October wave of Taleban attacks in 2017 context", 7 November 2017. Available from www.afghanistan-analysts.org/the-humvee-bomb-series-the-october-wave-of-taleban-attacks-in-2017-context/.

[27] See UNAMA and the Office of the United Nations High Commissioner for Human Rights, "Afghanistan: protection of civilians in armed conflict: annual report 2017" (Kabul, 2018). Available from https://unama.unmissions.org/sites/default/files/afghanistan_protection_of_civilians_annual_report_2017_final_6_march.pdf.

Member States to insurgent groups. Throughout 2017, there were regular open-source reports of shipments of ammonium nitrate being confiscated by the Afghan authorities.[28]

72. **Given the importance of the various constituent elements to the production of improvised explosive devices in Afghanistan and the importance of explosive materials, detonating cords and detonators to illegal mining activities (from which militants derive significant income), the Monitoring Team recommends that the Committee write to Member States urging them to work with the Government of Afghanistan to ensure that such items are supplied only to legitimate end-users. This will require an increase in international information-sharing, the full use of Member States' national laws, the raising of public and private sector awareness of the sensitivity of these items and the development of strong "know-your-customer" cultures, so as to ensure that such items do not fall into the hands of militants.**

2. Arms and ammunition

73. The Taliban supply of arms and ammunition remains a concern, as does that of ISIL. Afghan interlocutors told the Monitoring Team that at no time had the Taliban encountered difficulty in obtaining resupply of such materiel. The origins of arms and ammunition remain difficult to trace, but all of the Monitoring Team's Afghan interlocutors and some Member States reported that significant quantities of arms and ammunition used by the Taliban were being illegally obtained by, or provided to, the movement from outside Afghanistan. The Monitoring Team will continue to engage with Member States of the region to raise awareness of this issue.

74. The Monitoring Team continues to receive direct reporting from interlocutors of equipment and supplies, including ammunition, fuel and weapons, being redirected from Afghan National Defence and Security Forces logistical supply chains for sale to third parties, including the Taliban. Despite progress in combating corruption within the Afghan National Defence and Security Forces,[29] this remains a key source of concern for the security sector. In a report of the Special Inspector General for Afghanistan Reconstruction from September 2017, the monitoring and oversight of ammunition by Afghan National Defence and Security Forces was described as so poor that the Taliban "instructed their field commanders to simply purchase United States-supplied weapons, fuel and ammunition from Afghan soldiers because to do so is both easier and less expensive for the insurgents".[30]

75. Regarding the supply of night vision equipment to the Taliban, several interlocutors provided samples and images of confiscated equipment to the Monitoring Team. It is likely that the equipment was captured from Afghan National Defence and Security Forces. The Monitoring Team was also shown items such as the palm-sized universal thermal monocular produced by BAE Systems as part of its OASYS thermal imaging family, which were probably supplied from the open market. These devices can be handheld or mounted on a variety of weapons, including sniper rifles. The units do not have magnification capability, but can be rail-mounted in front

[28] Ammonium nitrate-based fertilizer was banned by the Government of Pakistan in November 2009, but only in the districts of Chitral, Lower Dir, Malakand, Swat and Upper Dir of Khyber Pakhtunkhwa Province. The Government of Afghanistan introduced a country-wide ban in January 2010.

[29] For example, in June, the Ministry of the Interior announced the arrest of more than 200 Ministry officials for corruption. Similarly, two Afghan national army colonels were sentenced to prison for 18-year and 20-year terms and fined more than $1.5 million in connection with a military generator fuel scheme.

[30] United States, Special Inspector General for Afghanistan Reconstruction, *Reconstructing the Afghan National Defence and Security Forces: Lessons from the U.S. Experience in Afghanistan* (Arlington, 2017). Available from www.sigar.mil.

of a telescopic sight to allow for magnified imagery at night. The units have visible and infrared laser pointers for target indication to other users of night-vision goggles. They are also able to record video.

VI. Work of the Monitoring Team

A. Cooperation with Member States and academic and civil society experts

76. The Monitoring Team cooperates closely with the Government of Afghanistan and has continued its schedule of frequent visits to the country in 2017 and 2018. In October 2017, the Monitoring Team participated in the visit of the Chair of the 1988 (2011) and ISIL (Da'esh) and Al-Qaida sanctions committees to Afghanistan. In addition, the Monitoring Team accompanied the same Chair on visits to Tashkent in November 2017 to participate in the Shanghai Cooperation Organization international conference on cooperation in combating terrorism and extremism. During its visits to Afghanistan and to other countries, as well as its attendance at several regional and international intelligence service meetings, the Monitoring Team gathered information on the situation in Afghanistan for the present report. The Monitoring Team continued to engage academic and civil society experts on the Taliban movement and the situation in Afghanistan. The Monitoring Team has previously engaged, and continues to engage, with Afghan analysts and academics during its visits to the country. In addition, the Monitoring Team has engaged academic experts on Afghanistan in the Russian Federation, the United States, Europe and the Central Asian States.

B. Cooperation with regional organizations

77. In addition to its ongoing cooperation with the Government of Afghanistan, the Monitoring Team continues to work with the Combined Maritime Forces Combined Task Force 150, UNODC and the World Customs Organization Global Container Control Programme to identify and analyse Taliban involvement in drug flows from Afghanistan across the Indian Ocean.

78. In a similar manner, the Monitoring Team continues to engage with the Collective Security Treaty Organization, with a view to identifying Taliban involvement in the flow of narcotics through the so-called "northern route". The Monitoring Team has also engaged the Shanghai Cooperation Organization and the Commonwealth of Independent States Anti-Terrorism Centre on this and related issues.

C. Cooperation with other United Nations bodies

79. The Monitoring Team continues to cooperate closely with UNAMA and is grateful for the support that it receives on a regular basis from UNAMA during and between its visits to the country. The Monitoring Team also continues to engage with relevant UNODC experts on the drug economy in Afghanistan.

D. Cooperation between the Security Council and the International Criminal Police Organization

80. The Monitoring Team continues to cooperate with the National Central Bureau of the International Criminal Police Organization (INTERPOL) in Kabul, as well as

with INTERPOL working groups and departments at the Organization's headquarters in Lyon, France. The INTERPOL New York Liaison Office and United Nations staff members mandated to support the work of the Monitoring Team have also facilitated the passing of relevant information on listed individuals and entities from the national central INTERPOL bureaux of various Member States.

E. Contributing to the public debate

81. The Monitoring Team welcomes feedback on the analysis and suggestions contained in the present report, which can be sent by email (1988mt@un.org).

United Nations S/2018/467

Security Council

Distr.: General
18 May 2018
English
Original: French

Letter dated 16 May 2018 from the Permanent Representative of France to the United Nations addressed to the President of the Security Council

I have the honour to transmit herewith a letter dated 15 May 2018 addressed to you from Mr. Abulrahman Mustafa, President of the National Coalition of Syrian Revolutionary and Opposition Forces (see annex).

I should be grateful if you have the present letter and its annex circulated as a document of the Security Council.

(*Signed*) François **Delattre**

18-08115 (E) 220518 250518

Please recycle

Annex to the letter dated 16 May 2018 from the Permanent Representative of France to the United Nations addressed to the President of the Security Council

[Original: English]

On behalf of the Syrian people, the Syrian National Coalition expresses its sincere gratitude and appreciation to the United Nations for its honourable position in support of the Syrian Revolution and the Syrian people in the face of the crimes being committed by the Assad regime, its allies and allied militias.

It is with deep concern that I call your attention to the Assad regime's recent passage of Law No. 10,* which mandates the re-zoning of residential properties in several districts in Syria where civilians were forcibly displaced from their homes by siege, aerial bombardment or arbitrary detention by the regime and its allies. Following a series of increasingly punitive property laws, Law No. 10 calls upon property owners to prove ownership of their property within 30 days or risk forfeiting their individual property rights. Given that millions of Syrians are displaced, with no prospect of safe return until measures are taken to protect civilians, Law No. 10 is tantamount to arbitrary confiscation of property and denial of individual property rights, as protected by the Universal Declaration of Human Rights. Law No. 10 will further cement the regime's policy of demographic change and mass forced displacement.

On 17 and 18 April 2018, the Syrian National Coalition held a workshop to discuss the consequences of Law No. 10 for the Syrian people, including the millions of refugees. The workshop was attended by the Coalition's legal committee, judges, lawyers, administrators, constitutional experts, technical experts from the Association of Engineers and representatives of technical departments in municipalities and the real-estate register office. All concluded that Law No. 10 was unconstitutional and would be impossible for Syrians to follow without risking their lives. Law No. 10 only serves to ensure the permanent displacement of Syrians and sends the message that the regime will never honour our right to return.

Owing to the urgent need to protect Syrians from this law as a consolidation of demographic change, we urge you to:

(a) Condemn Law No. 10 as illegitimate and in violation of international law;

(b) Demand an immediate cessation of hostilities throughout Syria and the full protection of civilians. Without serious efforts to protect civilians, the regime will only continue to seek a military solution;

(c) Urge full support for accountability. Accountability for all war crimes, including forced displacement, is necessary. We urge you to call upon States to support the International, Impartial and Independent Mechanism for the Syrian Arab Republic and to encourage the General Assembly to take the next step by establishing a special tribunal on Syria.

Your Excellency, we present to you the outcome document of the workshop (see enclosure).

(Signed) Abdulrahman **Mustafa**
President
National Coalition of Syrian Revolutionary
and Opposition Forces

* Available from https://www.sana.sy/?p=733959.

Enclosure

Workshop on Law No. 10 of 2018

Held on 17-18 April 2018

At the invitation of the Syrian National Coalition

and in cooperation with the Day After organization

A technical, legal workshop that was attended by a number of real estate,

administrative, constitutional,

legal, and technical experts and professionals

Workshop on Law No. 10 of 2018

And its effects on the Syrian people

Results and outcomes of the workshop:

1- Legitimacy and legality of Law No.10

Law No. 10 was issued by a de facto authority that significantly and even completely lacks legitimacy because of its practices in the face of the popular uprising that stripped it of all legitimacy to rule. The Assad regime confronted the popular uprising with death, destruction, war crimes, and violations representing callous disregard for human values and international law. These practices have prompted the international community, represented by its UN institutions and through the political and legal positions of the majority of world countries to challenge the Assad regime's legitimacy and recognize the Syrian National Coalition as the legitimate representative of the Syrian people. They also led to widespread recognition that power in Syria should be transferred to a Transitional Governing Body (TGB). The Assad regime has continued to this day to commit war crimes and violate international law and international resolutions, especially the Geneva Communique of 2012 and UN Security Council resolution 2254. The latest of these war crimes has been the use of chemical weapons against the people in the town of Douma with the aim of bringing them to their knees and eventually forcing them out of their homes.

The behavior and actions of the Assad regime have also undermined its legitimacy to enact new laws and decrees, many of which were violated by the very regime that issued them. This makes its legitimacy to introduce new laws and legalizations largely flawed and even makes such laws null and void.

Despite its complete loss of legitimacy, the Assad regime continues to adopt new laws and legalizations as a de facto authority. These legalizations and decrees included ones that encroach on the basic rights of the individual and even his property, which makes it imperative they are legally challenged and refuted by legal means and human rights laws in general.

Attempts to challenge and refute these laws and decrees should not be understood as conferring legitimacy on the Assad regime, which is a de facto authority lacking any legitimacy. Rather, these attempts are being

made out of the sense of duty to challenge the flaws in the laws, legislations, and decrees the Assad regime has issued based on the legal system it recognized and even within the constitutional rules the Assad regime issued itself despite its deeply flawed constitution. The workshop seeks to expose the contradiction between the provisions and purpose of Law No. 10 and between the legal structure recognized by the Assad regime itself.

Major flaws in Law No. 10 and its violation of the 2012 Constitution:

a) The constitutional flaws in the formation of The Preliminary Committee to Assess the Value of Property: It is a committee representing an exceptional judicial body which constituted a departure from the jurisdiction of the judiciary in the resolution of disputes. The formation of this committee also risks encroaching on the individual's rights and undermine the role of the judiciary.

   This flaw risks depriving citizens of the legal right to litigation as it implicitly considered the Committee a stage of litigation and stipulated that the citizen has the right to appeal. Moreover, Law No. 10 has denied the citizen the right to challenge the decisions that will be made by the Committee as it considered them unappealable.

b) Law No.10 legitimizes confiscation of individual property as most of its provisions will eventually lead to the forcible transfer of the ownership of the property to the state in view of the complicated procedures for the submission of title deeds and the tight timeframe surrounding the law as well as restricting the ability of the submission of title deeds to the fourth-degree relatives.

c) Compulsory Acquisition Without Compensation. Based on provisions of Law No. 10, all that is needed for re-zoning such as roads, squares, parks, parking lots, schools, police stations, hospitals, fire stations, temples, public libraries, cultural centers, playgrounds and all public facilities will be expropriated without paying compensation.

   This represents an explicit constitutional violation as expropriation of private property for public use can only be done after owners are fairly compensated.

2- The dangers of this law in terms of its content, timing, and effects:

With regards to its content, and despite the fact that its provisions are deeply flawed, such as leaving some terms without definition, the new legalization was neatly drafted to suit the purpose for which it was issued, which is to consolidate demographic change.

As for the timing, which is the most important, the law deliberately ignored the fact that millions of Syrians have fled to outside the country or have been internally displaced, It also ignored the fact that millions more are on the regime's wanted list or were killed, detained, forcibly disappeared, or have gone missing. Moreover, the new legalization ignored the security situation which makes it almost impossible for property owners to meet the tight timeframe surrounding, let alone the complicated procedures preventing their arrival to prove ownership.

3- Legal, political, and humanitarian implications of law No. 10:

In terms of the consequences, the new legalization will lead to the expropriation of individual's property in favor of the state and other sides that the new legalization did not identify. These sides can enter into partnerships with the Assad regime's administrative units in return for winning regulatory shares in the area targeted by re-zoning, which is a very serious issue. This will pave the way for transferring the ownership of the confiscated property from the original owners to companies and institutions with dubious political objectives that would replace the original owners with groups of people of a sectarian nature.

The ill-intent and hidden objectives of this legalization are abundantly clear as it is targeted at zones that are already regulated without giving reasons for such step. The new legalization does not identify the side with a mandate to issue executive instructions, thus leaving the door open for further encroachment on private ownership when it will take effect.

4- Strategies and defenses in the face of this legalization and other procedures and laws:

To counter such measure, there is a need to focus on the following:

a) To challenge the Assad regime's legitimacy to issue these laws and procedures and refute them under international law and international resolutions.

b) To prove the unconstitutionality of these laws and actions even under the regime's legal system and even according to the constitution which was adopted in 2012.

c) This law risks leading directly to mass forced displacement and large-scale demographic change, which constitute a war crime.

d) This legalization represents an encroachment on one of the fundamental rights, which is the right to ownership in accordance with the Universal Declaration of Human Rights whose Article 17 stated the following:

   1- Everyone has the right to own property alone as well as in association with others.

   2- No one shall be arbitrarily deprived of his property.

e) 5- This legalization affects the rights of all Syrians on all Syrian territory.

f) The enactment of this legalization will prevent the return of the displaced people and refugees whose property will be expropriated, which will leave them and their children without the incentive to return home in the future.

g) Reconstruction must not be intended to serve the plans for demographic change. It must begin only after the return of the displaced people and the completion of a political transition. This matter is consistent with the orientations of some influential countries. (Warning of the role of the United Nations such as in Homs under the name of restoration and removal of debris).

h) To focus on the necessity to protect the cultural identity and heritage as well as archaeological sites which are undergoing falsification and distortion by Iran using the Assad regime which serves the Iranian interests.

5-Recommendations:

a) To set a legal, technical committee by the Syrian National Coalition with the aim of preparing a comprehensive legal and technical dossier on the real estate laws and legalizations the Assad regime have introduced since 2011.

   Measures should be taken to make use of previous international experiences and examples, especially the Bosnian experience and the provisions of the Dayton Agreement concerning the preservation of the property of the displaced people and the consideration of the legal acts aimed at ethnic cleansing as null and void.

The legal, technical committee should comprise legal experts and specialists who worked in the departments of municipalities, city councils, directorates of antiquities, and real estate registers as well as real estate judges. The committee will be tasked with preparing a technical report on Law No. 10 of 2018 and Decree No. 66 of 2012 and others as well with looking into how its implementation will contribute to achieving the regime's goals. The committee will also be tasked with documenting the procedures and actions aimed at bringing about demographic change before and during the revolution and as well as holding a special workshop on this subject.

b) To call upon the Syrian National Coalition to take action at the political and legal level in the international fora to preserve the Syrians' rights to own property as well as to confront all subsequent measures by the regime.

c) To request that the Syrian Negotiations Commission include this grave issue and its consequences in any future negotiations and formula for political solution in Syria by introducing provisions ensuring the preservation and return of the rights of the displaced people. The Commission should also seek to nullify all the effects of the Assad regime's granting of citizenship and property to foreigners with the aim of serving the Iranian project in the region.

The Commission must seek to clarify to the international community and UN institutions that such legislations risk preventing the return of refugees who have lost their property and land which is an essential part of their sense of belong to their homeland.

d) To declared legal and political position as well as to consider whoever is involved in these laws and legalizations as a partner in the crimes of demographic change. To declare that those involved in such crimes will be hold responsible for participating in the demographic change operations.

e) What applies to these measures by the Assad regime apply to the other de facto authority, namely the so-called Self-management which is also responsible for mass forced displacement and the confiscation of property and rights of the displaced persons.

f) To request that the Syrian National Coalition organize large-scale campaigns in coordination with civil society organizations as well as Syrian and international human rights organizations in the face of procedures aimed at changing the demographic landscape in Syria.

g) To request that the Syrian National Coalition's Legal Committee work on the establishment of a mechanism to offset the effects of such legislations and prosecute the Assad regime and its partners for these crimes against a fundamental human right.

h) To organizing an awareness-raising campaign to warn Syrian citizens of the dangers and consequences of Law No. 10.

i) To warn the international community that the immediate goal of this law and previous real estate procedures and laws are aimed at paving the way for bringing about a demographic change in favor of Iranian-linked groups. The Iranian-led settlement process has already begun to manifests itself in some major cities in Syria such as Damascus, Homs and Deir Ezzor. (For example, in Damascus, especially in the area stretching from east of Mazza road, known as the Razzi orchards to Sayeda Zeinab and Husseiniya areas as well as Darayya. Procedures have already begun to transfer of ownership for the benefit of the Iranian government and groups associated with it).

The procedures taken by the Assad regime since 2011 are only an extension of its approach to use real estate laws as a means to achieve sectarian goals and serve Iran's interests and plans to impose various forms of control over specific areas in Syria. The Assad regime finds in destruction and displacement an opportunity to accelerate this approach and change the face and the composition of Syria's major cities, which will enable Iran to take control over the present and future of Syria via non-military means. These measures certainly aim to prevent the return of millions of displaced persons and the confiscation of property and rights of those who live in the areas targeted by the new legalization. This legalization has political implications that are aimed at reaping the fruit of the mass forced displacement and the destruction of whole cities and towns.

United Nations S/2018/468

Security Council

Distr.: General
7 May 2018

Original: English

Report of the Secretary-General concerning the credentials of the alternate representative of the Russian Federation on the Security Council

Pursuant to rule 15 of the provisional rules of procedure of the Security Council, the Secretary-General wishes to report that he has received a letter dated 7 May 2018 from the Permanent Representative of the Russian Federation to the United Nations stating that Mr. Stepan Y. Kuzmenkov has been appointed alternate representative of the Russian Federation on the Security Council.

In the opinion of the Secretary-General, that letter constitutes adequate provisional credentials.

18-07983 (E) 180518

Please recycle

United Nations S/2018/469

Security Council

Distr.: General
17 May 2018
English
Original: Russian

Letter dated 16 May 2018 from the Chargé d'affaires a.i. of the Permanent Mission of the Russian Federation to the United Nations addressed to the Secretary-General

I have the honour to transmit herewith an information bulletin dated 16 May 2018 from the Russian Federation Ministry of Defence regarding the status of implementation of the Memorandum on the creation of de-escalation areas in the Syrian Arab Republic (see annex).

I should be grateful if you would have the present letter and its annex circulated as a document of the Security Council.

(*Signed*) D. **Polyanskiy**
Chargé d'affaires a.i.

18-08045 (E) 180518 210518

Please recycle

Annex to the letter dated 16 May 2018 from the Chargé d'affaires a.i. of the Permanent Mission of the Russian Federation to the United Nations addressed to the Secretary-General

Information bulletin from the Russian Federation Ministry of Defence regarding the status of implementation of the Memorandum on the creation of de-escalation areas (16 May 2018)

Observance of the ceasefire regime

Monitoring groups have continued to monitor observance of the ceasefire regime as part of implementing the Memorandum on the creation of de-escalation areas in the Syrian Arab Republic, signed by the Russian Federation, the Republic of Turkey and the Islamic Republic of Iran on 4 May 2017.

The situation in the de-escalation areas has been assessed as stable.

The Russian representative office of the Russian and Turkish Joint Commission reviewing issues related to violations of the ceasefire regime has reported three incidents of gunfire in Aleppo Governorate.

The Turkish representative office has reported seven incidents of gunfire: six in Idlib Governorate and one in Hama Governorate.

Provision of humanitarian aid to the population of the Syrian Arab Republic

Over the past 24 hours, the Centre for Reconciliation of Opposing Sides in the Syrian Arab Republic has carried out two humanitarian operations: one in Aqrabat, Aleppo Governorate, and one in Irbin, Rif Dimashq Governorate. In total, 890 food parcels were distributed. The total weight of humanitarian cargo delivered was 3.8 tons.

In total, 1,808 humanitarian operations have been carried out.

The total weight of humanitarian cargo delivered is 2,564.46 tons.

Over the past 24 hours, medical assistance has been provided to 235 residents.

In total, medical assistance has been provided to 80,525 residents.

Reconciliation of opposing sides

No ceasefire agreements have been signed over the past 24 hours.

The number of populated areas that have joined the reconciliation process is unchanged — it is still 2,512.

The number of armed groups that have announced their commitment to accepting and fulfilling the terms of the ceasefire is unchanged — it is still 234.

United Nations S/2018/470

Security Council

Distr.: General
18 May 2018
English
Original: Spanish

Letter dated 17 May 2018 from the Permanent Representative of Cuba to the United Nations addressed to the President of the Security Council

I have the honour to attach herewith a document dated 15 May 2018, entitled "Statement by the Revolutionary Government: Cuba condemns fresh attacks by Israel against the Palestinian people" (see annex).

I should be grateful if you would have the present letter and its annex circulated as a document of the Security Council, under the item entitled "The situation in the Middle East, including the Palestinian question".

(*Signed*) Anayansi **Rodríguez Camejo**
Ambassador
Permanent Representative

18-08085 (E) 180518 220518

Please recycle

Annex to the letter dated 17 May 2018 from the Permanent Representative of Cuba to the United Nations addressed to the President of the Security Council

[Original: English and Spanish]

Statement by the Revolutionary Government: Cuba condemns fresh attacks by Israel against the Palestinian people

The Revolutionary Government of the Republic of Cuba vehemently condemns the criminal attack on the defenseless Palestinian population in the Gaza Strip, by the Israeli Army which has killed at least 52 people and left over 2,400 injured. This act constitutes another serious and flagrant violation of the UN Charter and international humanitarian law, and a new outrage against the Palestinian people.

Cuba reiterates its rejection of the unilateral steps taken by the United States to establish its diplomatic representation in the city of Jerusalem, in utter contempt of international law and the United Nations resolutions, and further aggravating tensions in the region

The Revolutionary Government reiterates once again its unwavering support for a comprehensive, just, and lasting solution to the Israeli-Palestinian conflict, on the basis of the creation of two states, and the Palestinian people's right to free self-determination and a sovereign state according to the pre-1967 borders, with East Jerusalem as its capital.

Havana, May 15, 2018

United Nations S/2018/471

Security Council

Distr.: General
17 May 2018

Original: English

Letter dated 17 May 2018 from the President of the International Residual Mechanism for Criminal Tribunals addressed to the President of the Security Council

I am pleased to transmit herewith the assessments of the President (see annex I) and of the Prosecutor (see annex II) of the International Residual Mechanism for Criminal Tribunals, submitted pursuant to paragraph 16 of Security Council resolution 1966 (2010).

I should be grateful if you would have the present letter and its annexes circulated to the Security Council.

(*Signed*) Theodor **Meron**

18-08048 (E) 300518

Please recycle

Annex I

Assessment and progress report of the President of the International Residual Mechanism for Criminal Tribunals, Judge Theodor Meron, for the period from 16 November 2017 to 15 May 2018

1. The present report, the twelfth in a series, is submitted pursuant to Security Council resolution 1966 (2010), by which the Council established the International Residual Mechanism for Criminal Tribunals and, in paragraph 16 of that resolution, requested the President and the Prosecutor of the Mechanism to submit reports every six months to the Council on the progress of the work of the Mechanism.[1] Certain information contained in the present report is also submitted pursuant to paragraph 20 of Council resolution 2256 (2015).

I. Introduction

2. By its resolution 1966 (2010), the Security Council established the International Residual Mechanism to carry out a number of essential functions of the International Criminal Tribunal for Rwanda and the International Tribunal for the Former Yugoslavia, including the trial of fugitives who are among the most senior leaders suspected of being primarily responsible for crimes, after the closure of the two Tribunals. Pursuant to the same resolution, the Mechanism shall operate for an initial period of four years and, subsequently, for periods of two years, following reviews of its progress, unless the Council decides otherwise.

3. In accordance with its mandate, and as set forth below, the Mechanism has assumed responsibility for a number of functions of both Tribunals, including with regard to a range of judicial activities, the enforcement of sentences, the protection of victims and witnesses and the management of archives. During the reporting period, the Mechanism was actively engaged in carrying out those responsibilities.

4. Notably, the Mechanism continues to be engaged in a period of heightened judicial activity, with the ongoing trial in the *Stanišić and Simatović* case, the appeal proceedings in the *Karadžić* and *Mladić* cases and a host of other smaller judicial matters, including in relation to requests for review of judgment, access to confidential information and allegations of contempt. The appeal judgment in the *Šešelj* case was delivered on 11 April 2018. Owing to a change of counsel in the *Ngirabatware* case, the review hearing originally scheduled for 8 to 16 February 2018 at the Arusha branch of the Mechanism could be rescheduled to take place later in 2018.

5. This heightened judicial activity comes at a time when the Mechanism is standing fully on its own for the first time following the closure of the International Tribunal for the Former Yugoslavia on 31 December 2017. As the Tribunal was finalizing its work, the Mechanism continued to work closely with its principals and staff to ensure a smooth and efficient transition of the remaining functions and services of the Tribunal to the Mechanism.

6. Although the Mechanism continued to make significant progress in the fulfilment of its mandate, it faced a number of challenges during the reporting period. It has long been anticipated that the Mechanism would face new hurdles following the closure of both Tribunals, upon whose support and services the Mechanism

[1] Unless otherwise specified, figures provided in the present report are accurate as at 15 May 2018.

depended from its inception. Following the decision of the General Assembly in 2017 not to approve the Mechanism's proposed budget for the biennium 2018–2019, however, the Mechanism reconsidered much of its long-term planning and substantially reconfigured a wide range of its operations. In view of the decision of the Assembly and pending further action in relation to the revised and significantly reduced budget proposal for the biennium (see A/72/813 and A/72/813/Corr.1), the Mechanism developed and is implementing an expenditure reduction plan to reduce the size of its staff as well as a number of non-post resources.

7. These reductions have left the Mechanism with skeletal staffing levels in many areas, opening the institution up to considerable operational risks that may have a negative impact on its ability to conduct and complete its functions in a timely and effective manner. Thus, for example, reductions in Security and in Language Support Services staff have an impact on the ability of the Mechanism to hold more than one proceeding in a day and sit for extended hours, if needed, absent significant advance notice. The reductions being undertaken also require the Mechanism to postpone or delay a variety of planned activities, such as the certification of the judicial record in a number of cases, the work to preserve audiovisual recordings currently stored on obsolete physical media (and the provision of public access to those recordings) and production of a publicly accessible catalogue of the archives. The reductions at issue include not just staffing but also non-post resources: for instance, enhancements to the premises of the Mechanism are now limited to those strictly necessary to respond to security or health and safety concerns. Further examples of the impact of the reductions are provided below. All of these reductions and the overall uncertainty have decreased staff morale and increased the risk of staff attrition as well as loss of institutional knowledge, risks that have, in fact, begun to materialize.

8. Notwithstanding these challenges, the Mechanism is determined to effectively and efficiently fulfil its mandate. The Mechanism remains guided in its activities by the Security Council's vision of it as a small, temporary and efficient structure, the functions and size of which will diminish over time, with a small number of staff commensurate with its reduced functions. To that end, the Mechanism continues to draw upon the best practices of and lessons learned from both Tribunals and other tribunals to actively pursue new ways to improve its operations, procedures and working methods and to maintain flexibility in staff assignments insofar as possible. By doing so, the Mechanism seeks to maximize effectiveness and efficiency across both of its branches while maintaining relatively low staffing levels.

9. The Mechanism is mindful of the temporary nature of its mandate. Wherever possible, detailed projections of the duration of residual functions entrusted to the Mechanism are reflected in the present report, in accordance with Security Council resolution 2256 (2015). Such projections are based on available data and, as a consequence, are at the present stage of the Mechanism's work both limited in nature and subject to modification in the event of evolving circumstances.

II. Structure and organization of the Mechanism

10. In accordance with its statute (see Security Council resolution 1966 (2010), annex 1), the Mechanism has a single set of principals — the President, the Prosecutor and the Registrar — who have responsibility over two branches, one located in Arusha, United Republic of Tanzania, and the other in The Hague, Netherlands. As mandated, the Mechanism commenced operations at its Arusha branch on 1 July 2012, assuming functions derived from the International Criminal Tribunal for Rwanda. The branch in The Hague commenced operations on 1 July 2013, assuming functions derived from the International Tribunal for the Former Yugoslavia.

A. Organs and principals

11. Article 4 of the statute of the Mechanism provides that the Mechanism shall consist of three organs: the Chambers; the Prosecutor; and the Registry, to provide administrative services for the Mechanism. The workloads of the Chambers and of the Registry are set forth below.

12. The President of the Mechanism is Judge Theodor Meron, who is based primarily at the branch in The Hague. The Prosecutor, who is based primarily at the Arusha branch, is Serge Brammertz. The Registrar is Olufemi Elias, who, subject to budgetary approval, will also be based primarily at the Arusha branch.

B. Judges

13. Article 8 of the statute of the Mechanism provides that the Mechanism shall have a roster of 25 independent judges. Pursuant to article 8 (3) of the statute, judges shall only be present at the seats of the branches of the Mechanism as necessary at the request of the President to exercise the functions requiring their presence. In so far as possible, and as decided by the President, the functions may be exercised remotely.

14. In furtherance of the Mechanism's effective and transparent management, the President continued his practice of providing regular written updates and briefings to his fellow judges on matters related to the work of the Chambers and of the Mechanism as a whole.

15. During the reporting period, and in accordance with article 10 (2) of the statute, the Secretary-General appointed Judge Elizabeth Ibanda-Nahamya to serve as a judge of the Mechanism following the resignation of Judge Solomy Balungi Bossa.

16 On 6 October 2017, the President convened a plenary of the judges, to be conducted remotely by written procedure in accordance with the Rules of Procedure and Evidence of the Mechanism. The plenary, which was called to consider certain matters related to the internal functioning of the Mechanism, was conducted in stages to ensure more effective communication processes and concluded on 9 April 2018. During the meetings of the plenary, the judges addressed issues pertaining to the diverse approaches of civil and common law systems and adopted amendments to the Rules of Procedure and Evidence. The judges also adopted a revision to the Code of Professional Conduct for the Judges of the Mechanism, adding a disciplinary mechanism for the judges of the Mechanism. Such a measure reflects international best practice in relation to judicial accountability, and its importance was endorsed by the Security Council in its resolution 2329 (2016) in relation to the International Tribunal for the Former Yugoslavia.

C. The branches

17. In accordance with article 3 of the statute of the Mechanism, the Mechanism's two branches have their seats in Arusha and The Hague, respectively. The Mechanism continued to enjoy excellent cooperation with the host State at each of its two branches, in accordance with the headquarters agreement in place for each branch.

18. The new premises of the Arusha branch have been in use since 5 December 2016. The post-construction phase of the project is ongoing and is focused on the completion of required remedial works; the appropriate recovery of direct and indirect costs arising from delays, where economically feasible to do so, pursuant to paragraph 7 of General Assembly resolution 70/258; the completion of the transition

from project management to facilities management; and the final closure of the project account. Particular attention is being paid to correcting technical defects of the facility constructed to host the archives of the International Criminal Tribunal for Rwanda, and the Mechanism started transferring the archives to the new facility during the reporting period. It is expected that 95 per cent of the archives will have been transferred to the facility by the beginning of July 2018. The Mechanism remains deeply grateful to the United Republic of Tanzania for its generous and steadfast support throughout this construction project.

19. The Mechanism's sub-office in Kigali continued to provide protection and support services to witnesses, including liaison with relevant national and local governmental bodies on these issues. The Kigali sub-office also facilitated the activities of the monitors of the cases of the International Criminal Tribunal for Rwanda that have been referred to Rwanda, pursuant to article 6 of the statute of the Mechanism.

20. The branch of the Mechanism in The Hague and the International Tribunal for the Former Yugoslavia shared premises until the closure of the Tribunal on 31 December 2017. In the interests of efficiency, the Mechanism has a strong preference for remaining at its current premises. To that end, the Mechanism negotiated with the owners of the premises to transfer the lease of the Tribunal to the Mechanism and extend it to the current biennium.

21. Following the closure of the International Tribunal for the Former Yugoslavia, the Mechanism assumed full responsibility for the sub-office of the Tribunal in Sarajevo, which is being maintained to facilitate essential liaison activities, witness protection and other services. Operations previously conducted through the sub-office of the Tribunal in Belgrade have been consolidated and streamlined with the support of staff in The Hague and the Sarajevo sub-office. The Belgrade sub-office was closed on 22 December 2017.

D. Administration, staffing and budget

22. The basic requirements for a small, self-standing Mechanism administration were developed in cooperation between the Mechanism and the Tribunals and have been included in the budgets for the Mechanism since 2014. In line with those requirements, the recruitment of the Mechanism's administrative staff occurred in phases as the Tribunals downsized and eventually closed. As at 1 January 2018, the Mechanism's administration was fully self-standing.

23. In terms of the administration of staffing, the Mechanism put in place focal points for gender issues; sexual exploitation and abuse; lesbian, gay, bisexual and transgender concerns; diversity and inclusion issues; and disability and accessibility in the workplace.

24. As at 4 May 2018, 158 of the 176 continuous posts approved to carry out the Mechanism's continuous functions were occupied. An additional 351 personnel were serving as general temporary assistance to assist with ad hoc needs, including judicial work and litigation issues. Those positions are short-term in nature and, consistent with the flexible staffing structure of the Mechanism, the number of such staff will fluctuate depending on the workload. Since the commencement of the work of the Mechanism, recruitment has occurred in full respect of all applicable rules, and no case concerning recruitment has been brought before the Organization's internal justice system.

25. The Mechanism's continuous and general temporary assistance positions included nationals of 72 States, namely, Algeria, Australia, Austria, Belgium, Bolivia

(Plurinational State of), Bosnia and Herzegovina, Bulgaria, Brazil, Burkina Faso, Burundi, Cameroon, Canada, China, the Congo, Croatia, Cuba, Cyprus, Czechia, the Democratic Republic of the Congo, Denmark, Egypt, Fiji, Finland, France, the Gambia, Germany, Ghana, Guinea, Haiti, India, Indonesia, Iraq, Ireland, Italy, Jamaica, Kenya, Latvia, Lebanon, Lesotho, Liberia, Madagascar, Mali, Mexico, Nepal, the Netherlands, New Zealand, the Niger, Nigeria, Pakistan, the Philippines, Poland, the Republic of Korea, Romania, the Russian Federation, Rwanda, Samoa, Senegal, Serbia, Sierra Leone, South Africa, Spain, the Sudan, Sweden, Thailand, the former Yugoslav Republic of Macedonia, Uganda, Ukraine, the United Kingdom of Great Britain and Northern Ireland, the United Republic of Tanzania, the United States of America, Zambia and Zimbabwe.

26. Fifty-six per cent of Professional staff are women, which goes beyond the gender parity goals set by the Secretary-General. Further details concerning the staffing by division of the Mechanism are provided in enclosure 1.

27. By its resolution 72/258, the General Assembly approved a commitment authority in an amount not to exceed $87,796,600 gross for the maintenance of the Mechanism from 1 January to 31 December 2018. After a detailed review of the requirements for 2018 and the development of the expenditure reduction plan, the Mechanism concluded that the approved commitment authority would not be sufficient to carry out the functions mandated by the Security Council, including trials and appeals, through to the end of 2018. On the basis of the funding gap and operational risks generated by the current situation, it was concluded that it would be necessary to seek additional funding by submitting a revised budget proposal for the consideration of the Assembly at the second part of its resumed session, rather than during the second half of 2018. The revised proposed budget for the biennium 2018-2019 (A/72/813 and A/72/813/Corr.1) was considered by the Advisory Committee on Administrative and Budgetary Questions on 6 April 2018 and is expected to be considered by the Assembly in May 2018.

28. In order to implement the decision of the General Assembly pending the consideration of a revised budget proposal for the biennium 2018–2019, the Registry developed and is implementing the expenditure reduction plan to allow the Mechanism to fulfil the core elements of its mandate — mainly judicial activity — to the greatest extent possible within the commitment authority granted. As a result of this plan, reductions are being made in both post and non-post resources, as discussed above. While reductions are being made at both branches, the great majority of reductions are at the branch in The Hague.

29. The staffing reductions under the expenditure reduction plan carry significant operational risks, such as delayed mandate implementation, delayed or diminished service provision and the non-implementation of planned activities, as highlighted above.

30. In order to manage the post reductions, the Registrar requested the Joint Negotiating Committee, which serves as an advisory body to the Registrar and comprises management and staff union representatives, to develop a proposal for a streamlined downsizing policy for exigent circumstances. The Registrar has adopted the downsizing policy, and its implementation is currently under way. Meanwhile, the Committee is making significant progress in developing a proposal for a broader policy to guide future post reductions, building upon lessons learned during the downsizing at both Tribunals.

31. The expenditure reduction plan also provides for reductions of non-post resources to the greatest extent possible: general operating expenses have been significantly decreased through measures such as reducing access to the premises for staff at evenings and weekends, reconfiguring the housing of staff at the premises in

The Hague to reduce the number of floors in use (thereby saving on the costs of utilities and services) and revising arrangements for the delivery of other services such as information technology, internal mail delivery and cleaning services. Similarly, enhancements to the premises of the Mechanism are now limited to those strictly necessary to respond to security or health and safety concerns. The Mechanism's vehicle holdings have been reviewed and no provision has been made in the revised budget proposal for the acquisition of any new vehicles.

32. Details and a breakdown of the Mechanism's costs, presented in terms of funds committed, are provided in enclosure 2.

E. Legal and regulatory framework

33. Having established a structure to govern its activities, the Mechanism continued to develop rules, procedures and policies that harmonized and built upon the best practices of both Tribunals, as well as its own practice, in order for the Mechanism to best achieve its mandate in a lean and efficient fashion.

34. In accordance with article 13 (2) of the statute of the Mechanism, the judges of the Mechanism adopted amendments to certain of the Rules of Procedure and Evidence during a meeting of the plenary conducted remotely by written procedure, which concluded on 9 April 2018. The judges of the Mechanism likewise adopted revisions to the Code of Professional Conduct for the Judges of the Mechanism, introducing a disciplinary mechanism for the judges of the Mechanism, as discussed above. During the reporting period, the President also considered and provided feedback to the Registry on a variety of draft guidelines and policies.

35. The Registrar, in consultation with the President, promulgated the Mechanism's policy on translation for the conduct of judicial activity and the policy for the appointment and remuneration of amici curiae investigators and prosecutors. With regard to the latter, the Registry established a list of pre-approved candidates for appointment as amici curiae investigators or prosecutors. The Registry is also reviewing policies related to the support and protection of victims and witnesses to reflect gender-sensitive and gender-appropriate approaches, and initiated a review of the Code of Professional Conduct for Defence Counsel Appearing Before the Mechanism with a view to further clarifying the obligations of defence support staff. Additionally, in order to enhance transparency and ensure qualified legal representation in all proceedings before the Mechanism, the Registry formalized the process for the recognition of counsel providing pro bono legal advice to convicted persons.

36. The Mechanism is finalizing rules and regulations governing detention matters, drawing upon practices of both Tribunals as well as the United Nations Standard Minimum Rules for the Treatment of Prisoners (the Nelson Mandela Rules; see General Assembly resolution 70/175) and recommendations of the International Committee of the Red Cross. Pending promulgation of the detention-related regulatory framework, the rules of detention and related instruments of the International Tribunal for the Former Yugoslavia continued to apply, mutatis mutandis, to detainees at the branch in The Hague, while the rules of detention and related instruments of the International Criminal Tribunal for Rwanda continued to apply, mutatis mutandis, to detainees at the Arusha branch.

37. At the time of reporting, there were 34 public legal and regulatory instruments and policies in effect at the Mechanism, as well as a growing number of internal guidelines and operating procedures. Those instruments, policies and other guidance documents provide important clarity and transparency for stakeholders across a broad range of the Mechanism's mandated functions.

III. Judicial activities

38. During the reporting period, the Mechanism was seized of a number of complex matters. The President and the judges continued to engage in a wide variety of judicial activity, issuing 253 decisions and orders. In accordance with article 8 (3) of the statute of the Mechanism, judicial activity was primarily carried out remotely. The President assigned matters to judges on the basis of an equitable distribution of workload. All of the judges on the roster were collectively supported by a lean Chambers team of 21 staff serving at both branches of the Mechanism.

39. Of the 253 decisions and orders issued during the reporting period, 64 (or approximately one in four) related to requests for access to confidential material or for the variation of protective measures. The requests were made primarily by prosecution authorities in national jurisdictions, but also included requests from accused in national jurisdictions, accused or appellants in pending cases in relation to their defence or appeals and convicted persons seeking information in relation to possible requests for review. All such requests were primarily adjudicated by single judges working remotely or by the presiding judge in a pending case and typically involved the issuance of one or more preliminary orders before the issuance of the final decision.

40. Although it is not possible to foresee precisely when or how often such requests may arise, as recognized in the report of the Secretary-General preceding the establishment of the Mechanism (S/2009/258), it is expected that requests for access to confidential material or the variation of protective measures will continue to be filed as long as cases continue to be investigated and prosecuted in national jurisdictions. In addition, accused or appellants will likely continue to file such requests while their cases are pending, and convicted persons are also likely to do so until the conclusion of their sentences.

41. Judicial work was also carried out remotely by single judges in relation to other types of motions, including requests for the disclosure of exculpatory material or investigation into allegations of false testimony or contempt. As the Mechanism has a continuing obligation to safeguard the administration of justice, its duty to investigate and prosecute allegations of false testimony or contempt, subject to the provisions of article 1 (4) of its statute, will continue until its closure.

42. In addition to the above, the Mechanism judges continued their work on a trial and on appeals and requests for review related to the core crimes enumerated in the statute, as set forth below.

43. In the case of Jovica Stanišić and Franko Simatović, the trial commenced on 13 June 2017, and the presentation of the Prosecution's case is ongoing. In line with the projections made in the report issued in November 2017 (S/2017/971, annex), it is anticipated that the Prosecution will conclude the presentation of its witnesses in June or July 2018. Subject to the outcome of pending or anticipated litigation, however, the presentation of the Prosecution's witnesses may continue until October 2018 if it is in the interests of justice and the proper consideration of the case. Any deviation from the previous projection for the completion of the Prosecution's case in June 2018 is not expected at this stage to have an impact on the overall projected length of the case. Following the conclusion of the Prosecution's case and the filing of the Defence's witness and exhibit list, it will become possible to make more detailed projections concerning the overall duration of the remaining trial proceedings. Using the duration of the defence case during the original proceedings as a guide, however, it is likely that the case will conclude in the second half of 2020. At the current stage of the proceedings, the three judges on the bench in the case are carrying out their work at the seat of the Mechanism's branch in The Hague.

44. The appeals by Radovan Karadžić and the Prosecution against the trial judgment issued on 24 March 2016 by a Trial Chamber of the International Tribunal for the Former Yugoslavia in the *Karadžić* case continued during the reporting period. The Trial Chamber had found Mr. Karadžić guilty of genocide, crimes against humanity and violations of the laws and customs of war and had sentenced him to 40 years of imprisonment. In their notices of appeal, filed on 22 July 2016, Mr. Karadžić and the Prosecution presented a total of 54 grounds of appeal. Citing the unprecedented breadth and complexity of the case, the large amount of evidence on the record, the length of the trial judgment and the complexity of the issues raised on appeal, the parties requested that the Appeals Chamber grant extensions of time for the briefing process. The Appeals Chamber partly granted the requests and, after 217 days of extension, the briefing process concluded on 6 April 2017 with the filing of the parties' reply briefs. An appeal hearing was held on 23 and 24 April 2018, ahead of the previous projected schedule, and the case is now expected to be completed in December 2018 (subject to developments in the judges' deliberations), significantly earlier than projected. Apart from the President, who is presiding as prescribed by the statute, all the judges on the bench in the case are carrying out their work remotely, with the exception of the appeal hearing and in-person deliberations.

45. On 31 March 2016, a Trial Chamber of the International Tribunal for the Former Yugoslavia issued its judgment in the case of Vojislav Šešelj, finding him not guilty on all counts. The Prosecution appealed, and, following the issuance of written submissions by the parties, presented arguments orally to the Appeals Chamber on 13 December 2017. Mr. Šešelj, who was self-represented, did not attend the hearing. In line with a previous warning issued by the Appeals Chamber, a duty counsel was assigned to represent Mr. Šešelj's procedural interests at the hearing and Mr. Šešelj was given an opportunity to respond in writing to transcripts of the appeal hearing. The Appeals Chamber delivered its judgment on 11 April 2018, in which it reversed Mr. Šešelj's acquittals, in part, and convicted him of instigating persecution (forcible displacement), deportation and other inhumane acts (forcible transfer) as crimes against humanity and for committing persecution (violation of the right to security) as a crime against humanity in Hrtkovci, Vojvodina (Serbia). The Appeals Chamber sentenced Mr. Šešelj to 10 years of imprisonment, but declared the sentence served in view of the credit to which he was entitled under the Rules of Procedure and Evidence for his detention in the custody of the International Tribunal for the Former Yugoslavia pending trial from 14 February 2003 to 6 November 2014. With the exception of the President, who was presiding as prescribed by the statute, all the judges on the bench in the case carried out their w rk remotely, with the exception of the appeal hearing, in-person deliberations and the delivery of the judgment.

46. On 22 November 2017, a Trial Chamber of the International Tribunal for the Former Yugoslavia issued its judgment in the case of Ratko Mladić, finding him guilty of genocide, crimes against humanity and violations of the laws and customs of war, and sentencing him to life imprisonment. Citing the extraordinary breadth and complexity of the case, the length of the trial judgment, the lack of defence resources, and intended medical and legal filings, Mr. Mladić requested the Appeals Chamber to extend the deadline for filing his notice of appeal. The Appeals Chamber granted a limited extension of time for the filing of notices of appeal and rejected a request for a further extension of time. Both Mr. Mladić and the Prosecution filed their notices of appeal on 22 March 2018. As set forth below, accurate predictions as to completion can only be made at the conclusion of the briefing. At this stage, a pre-briefing estimate can be made for completion of the case by the end of 2020. At present, all the judges on the bench in the case are carrying out their work remotely, with the exception of the President, who is presiding as prescribed by the statute.

47. On 8 July 2016, Augustin Ngirabatware filed a request for review of his judgment. As described in previous reports, the proceedings in the case were delayed owing to the inability of Judge Aydin Sefa Akay to exercise his judicial functions in the case until his provisional release from detention on 14 June 2017. Thereafter, the Appeals Chamber was able to consider the merits of Mr. Ngirabatware's request. On 19 June 2017, the Appeals Chamber granted the request for review and ordered the parties to file a list of proposed evidence and witnesses to be introduced at a review hearing. On 19 December 2017, the Appeals Chamber authorized the replacement of Mr. Ngirabatware's counsel in view of a conflict of interest. Following the replacement of counsel, the Pre-Review Judge ordered Mr. Ngirabatware and the Prosecution to file by the end of June 2018 a list of anticipated witnesses and evidence to be heard at a forthcoming review hearing. Following receipt of that information, the Appeals Chamber will determine the scope and timing of the hearing, which is expected to occur in the second half of 2018. At the current stage of the proceedings, all the judges on the bench in the case are carrying out their work remotely, with the exception of the President, who is presiding as prescribed by the statute.

48. During the reporting period, the President of the Mechanism, pursuant to his authority in the area of enforcement of sentences, issued six orders and decisions in relation to requests for early release, as well as a number of other decisions. He is currently seized of a number of other confidential enforcement matters. In reaching decisions on certain enforcement matters, the President consults the judges of the sentencing Chamber who are judges of the Mechanism, as applicable, through remote procedure. If none of the judges who imposed the sentence are judges of the Mechanism, the President is to consult at least two other judges. The President also issued a number of additional orders and decisions, including five orders and decisions related to requests for review of administrative decisions. Moreover, the President issued 36 assignment orders, of which 26 were assignments to single judges and 10 were assignments to the Appeals Chamber.

49. All estimates in the present report related to judicial activities are based on the presumption that no extraordinary events that may have an impact on their conduct will occur during the course of the proceedings, such as the replacement of counsel for reasons of health, newly arising conflicts or the illness of an accused. All projections remain subject to periodic updating on the basis of any new information. In this respect, the Mechanism recalls that, in its evaluation report of 12 May 2016, the Office of Internal Oversight Services (OIOS) indicated with respect to cases of the International Tribunal for the Former Yugoslavia that any changes based on the requirements of a just resolution of a case should not necessarily be construed as reflecting slippage in the conduct of a case and that accurate predictions as to completion could only be made at the close of a trial or at the conclusion of a briefing on appeal. With respect to projections for judicial activities other than trials and appeals from judgment, the Mechanism recalls the observations made in the report of the Secretary-General that "it is not possible to foresee when, and how often, requests related to contempt cases, protective orders, review of judgements, referral of cases and pardon and commutation of sentences will arise", but that "such issues are more likely to arise within a period of 10 to 15 years after the closure of the Tribunals and that the level of work involved ... will inevitably decrease over time" (see S/2009/258, para. 102).

50. Efforts continued to streamline internal working methods and processes within Chambers and, in collaboration with various other Sections of the Mechanism, to further facilitate the maintenance of an efficient and transparent "one office" work environment that drew on the resources available at both branches of the Mechanism to address judicial workload collectively wherever arising. In addition, the President and senior staff members regularly exchanged information and views with

representatives from other courts and tribunals with a view to identifying and sharing best practices in fair and expeditious case management. Moreover, the judges, whose legal backgrounds are roughly evenly split between civil and common law, continued to draw on their expertise and knowledge in the adjudication of the various matters to which they were assigned.

51. Notwithstanding those strengths, both the Chambers Legal Support Section and the Office of the President were affected by the decision not to approve the Mechanism's budget as originally proposed for the biennium 2018–2019. In particular, the departure of several staff members from the already lean teams and the deferral of recruitment to fill vacancies increased the workload of existing staff and resulted in longer time frames for addressing less time-sensitive matters. The absence of an approved biennial budget also affected staff morale, giving rise to a risk of staff attrition, which may have an impact on the timely completion of judicial activities as outlined above.

IV. Registry support to judicial activities

52. During the reporting period, the Registry continued to provide support to the Mechanism's judicial activities at both branches.

53. The Registry processed and disseminated 1,071 filings, including 133 Registry legal submissions, amounting to 12,584 pages. In addition, the Registry facilitated and serviced two status conferences in the *Karadžić* case, appeal hearings in the *Šešelj* and *Karadžić* cases, the rendering of the appeal judgment in the *Šešelj* case and hearings in the *Stanišić and Simatović* case. With respect to the latter, the Registry facilitated court hearings in accordance with the Trial Chamber's court schedule, as well as the provision of testimony by witnesses via video-link conferences.

54. The Registry's Language Support Services translated 11,000 pages of documents, provided 346 conference interpreter days and produced 8,000 pages of transcripts in English and French. This includes the Kinyarwanda Unit of the Language Support Services, which provides translations of, inter alia, monitoring reports with respect to cases referred to Rwanda.

55. Reductions undertaken pursuant to the expenditure reduction plan leave only a bare minimum of staff in the Registry to support courtroom functions, and the illness or unexpected absence of an interpreter, courtroom officer, witness protection officer or other essential courtroom personnel, such as audiovisual technicians and security personnel, means that court sessions, including in the ongoing *Stanišić and Simatović* case, may have to be delayed.

56. Furthermore, given the implementation of the expenditure reduction plan, the increased strain on the limited resources of the Language Support Services will result in delays of necessary translations for court proceedings. Staff reductions in the Language Support Services will delay the completion of the translation of the *Mladić* trial judgment into Bosnian-Croatian-Serbian by several months, which risks delaying the *Mladić* appeal proceedings. The translation of the *Prlić et al.* and *Šešelj* appeal judgments into Bosnian-Croatian-Serbian can only begin thereafter.

57. The Registry's Office for Legal Aid and Defence administered the Mechanism's legal aid system and provided various forms of assistance, financial and otherwise, to an average of 45 defence teams comprising a total of approximately 110 defence team members. In particular, the Office processed over 120 defence invoices, travel requests and expense reports during the reporting period. In addition, the Office increased the number of counsel admitted to the list of counsel eligible for assignment to suspects and accused before the Mechanism to 49.

V. Victims and witnesses

58. Pursuant to article 20 of the statute of the Mechanism and article 5 of the transitional arrangements (see Security Council resolution 1966 (2010), annex 2), the Mechanism is responsible for the protection of the witnesses who have testified in cases completed by the two Tribunals, as well as of those witnesses who have appeared or may appear before the Mechanism. In practice, this entails the protection and support of approximately 3,150 witnesses.

59. The Witness Support and Protection Unit continued to be fully operational at both branches of the Mechanism. Consistent with judicial protection orders, and in close collaboration with domestic authorities and other United Nations entities, the Unit provided security for witnesses by undertaking threat assessments and coordinating responses to security-related requirements. The Unit also ensured that protected witness information remained confidential, and it continued to contact witnesses when orders to seek consent to the rescission, variation or augmentation of witness protective measures were received. In addition, the Unit facilitated contact between parties and relocated witnesses or witnesses of opposite parties when so required.

60. As part of the provision of support services to witnesses by the Mechanism at the Arusha branch, witnesses residing in Rwanda continued to receive medical and psychosocial services. Those services are particularly focused on the witnesses experiencing psychological trauma or living with HIV/AIDS, as many of those who contracted the virus did so as a result of crimes committed against them during the genocide.

61. The witness protection teams at the two branches continued to exchange best practices and to use a common information technology platform for their respective witness databases. The platform maximizes operational efficiency across both branches.

62. During the reporting period, the Witness Support and Protection Unit implemented and complied with 25 judicial orders related to protected witnesses, including orders in relation to requests for the variation of protective measures. In addition, the Unit assisted with addressing requests for the variation of protective measures related to the International Tribunal for the Former Yugoslavia until its closure on 31 December 2017. The Unit at the branch in The Hague continued to receive new referrals for the assessment and implementation of protective measures.

63. The Witness Support and Protection Unit at the branch in The Hague continued to support witness activity in the *Stanišić and Simatović* case, facilitating the testimony of 16 witnesses in the case during the reporting period. Similarly, the Witness Support and Protection Unit at the Arusha branch made administrative and logistical arrangements for witness activity related to the anticipated hearing in the *Ngirabatware* case.

64. During the reporting period, the Witness Support and Protection Unit at the Arusha branch, in collaboration with the Office of the United Nations High Commissioner for Refugees (UNHCR), intervened with authorities in national jurisdictions on behalf of 85 protected witnesses who testified before the International Criminal Tribunal for Rwanda, for consideration of exemption applications pertaining to the implementation of the UNHCR cessation clause of the Convention relating to the Status of Refugees of 1951.

65. Further reductions in the staffing levels of the witness protection and support teams may jeopardize the provision of ongoing protection services owing to an inability to expeditiously address all security matters requiring assessment. There is

likewise a risk of delays in trial hearings if witness protection staff are not available to provide psychosocial support and counselling to witnesses prior to testifying.

66. It is expected that victim and witness protection will continue to be required in future bienniums in the light of the numerous judicial protection orders covering 3,150 victims and witnesses that will remain in force unless rescinded or waived. It is difficult to assess precisely how long the victim and witness protection function would need to remain operational. The provision of support may be required until the last victim or witness is deceased or, where applicable, until the cessation of protective measures covering a victim's or witness's immediate family members. In relation to relocated witnesses, support may be required until the last member of the immediate family is deceased.

VI. Fugitives and trial and appeal readiness

67. The responsibility for tracking the remaining fugitives indicted by the International Criminal Tribunal for Rwanda was transferred to the Mechanism on 1 July 2012, in accordance with article 6 of the transitional arrangements (see Security Council resolution 1966 (2010), annex 2). In that resolution, the Council urged all States, especially States where fugitives were suspected to be at large, to further intensify cooperation with and render all necessary assistance to the Mechanism to achieve the arrest and surrender of all remaining fugitives as soon as possible.

68. Eight accused indicted by the International Criminal Tribunal for Rwanda remained fugitives. Of the eight fugitives, the Mechanism retained jurisdiction over three: Félicien Kabuga, Augustin Bizimana and Protais Mpiranya. The cases of the other five fugitives had been referred to Rwanda by the Tribunal. The arrest and prosecution of all eight individuals remained a top priority for the Mechanism. The fugitive tracking function is within the responsibility of the Prosecutor and is discussed in his report (see annex II).

69. Consistent with its commitment to efficiency, the Mechanism continued to ensure that it was prepared to conduct a trial or appeal in the event of a fugitive being apprehended or of any ongoing proceedings resulting in an appeal or retrial. Pursuant to article 15, paragraph 4, of the statute of the Mechanism, rosters of qualified potential staff have been established to enable the expeditious recruitment of the additional staff required to support those judicial functions.

70. Trial readiness will continue to be required as long as the cases of the remaining accused still at large are pending before the Mechanism. Furthermore, there is a possibility that a retrial may be ordered in any ongoing appeal proceedings or that the referral of a case to a national jurisdiction for trial may be revoked.

VII. Detention facilities

71. At the United Nations Detention Facility in Arusha and the United Nations Detention Unit in The Hague, the Mechanism detains persons awaiting trial, appeal or other judicial proceedings before the Mechanism, as well as persons otherwise detained on the authority of the Mechanism, such as convicted persons awaiting transfer to an enforcement State.

72. The Mechanism has managed and operated the United Nations Detention Facility in Arusha since the transfer of that function from the International Criminal Tribunal for Rwanda on 1 October 2015.

73. It is expected that the services of the United Nations Detention Facility in Arusha will continue to be required until the two convicted persons currently awaiting transfer to an enforcement State are transferred or, alternatively, released. Once the remaining convicted persons are transferred, the Facility will retain an area commensurate to the detention of the remaining three fugitives expected to be tried by the Mechanism after they are apprehended and will provide a residual custodial capacity for other individuals who may appear before the Mechanism.

74. In The Hague, the Mechanism shared the responsibility for the provision of detention services at the United Nations Detention Unit with the International Tribunal for the Former Yugoslavia. Management of the Unit was fully transferred to the Mechanism on 31 December 2017. The services of the Unit will continue to be required until all trials and appeals in ongoing cases are concluded and all detained persons are released or transferred to an enforcement State, after which a reduced, residual custodial capacity for other individuals who may appear before the Mechanism may have to be arranged.

75. As described in more detail in section II. E above, the Mechanism is in the process of finalizing a regulatory framework to govern detention matters at both branches.

VIII. Cases referred to national jurisdictions

76. Pursuant to article 6, paragraph 5, of its statute, the Mechanism is responsible for monitoring cases referred to national courts by the two Tribunals, with the assistance of international and regional organizations and bodies.

77. The cases of three individuals indicted by the International Criminal Tribunal for Rwanda and subsequently apprehended, Jean Uwinkindi, Bernard Munyagishari and Ladislas Ntaganzwa, were referred to Rwanda for trial. The *Uwinkindi* case was on appeal, as was the *Munyagishari* case. Trial proceedings were ongoing in the *Ntaganzwa* case. Two additional individuals indicted by the Tribunal, namely, Laurent Bucyibaruta and Wenceslas Munyeshyaka, had their cases referred to France for trial. The *Bucyibaruta* case continued to be in the investigative/pretrial phase, while an appeal was pending before an Investigation Chamber in relation to the *Munyeshyaka* case after it was dismissed in 2015 by French investigating judges.

78. The Mechanism continued to monitor the cases referred to Rwanda with the pro bono assistance of six monitors from the Kenyan section of the International Commission of Jurists, pursuant to a memorandum of understanding concluded on 15 January 2015 and subsequently amended on 16 August 2016 to formally encompass the *Ntaganzwa* case. An interim monitor continued to monitor the two cases referred to France.

79. The Mechanism continued to monitor the status of the case of Vladimir Kovačević, which was referred to Serbia by the International Tribunal for the Former Yugoslavia in March 2007.

80. The Mechanism's activities in relation to cases referred to national jurisdictions are expected to continue for the duration of those cases. While each case is different, the experience with referred cases to date is instructive as to potential timelines. The *Ntaganzwa* case is currently at trial, approximately two years after the accused was transferred to Rwanda. Mr. Uwinkindi was transferred to Rwanda for trial in 2012, and Mr. Munyagishari was transferred to Rwanda for trial in 2013. Both of their cases are currently at the appeal stage. If any of the five remaining fugitives whose cases have been referred to Rwanda for trial are arrested, the estimate for the continuation of the Mechanism's monitoring function with respect to Rwanda will need to be

assessed at that time. The two cases referred to France have been at the investigative/pretrial phase for 10 years and, as set forth above, remain ongoing. Further estimates for the continuation of the Mechanism's monitoring function with respect to France will depend on decisions of the French judicial authorities in those cases.

IX. Enforcement of sentences

81. In accordance with article 25 of the statute of the Mechanism, the Mechanism has jurisdiction to supervise the enforcement of sentences. In accordance with article 26 of the statute, the President of the Mechanism has the authority to decide on requests for pardon or commutation of sentence.

82. The Mechanism relies on the cooperation of States for the enforcement of sentences. Sentences are served within the territory of States Members of the United Nations that have concluded agreements for the enforcement of sentences or indicated their willingness to accept convicted persons under any other arrangement. The agreements concluded by the United Nations for the two Tribunals continue to apply to the Mechanism, mutatis mutandis, unless superseded by subsequent agreements. The Mechanism continued its efforts to secure additional agreements to increase its enforcement capacity for both branches and it welcomes the cooperation of States in that regard.

83. In December 2017, the Mechanism transferred four convicted persons from the United Nations Detention Facility in Arusha to Senegal to serve their sentences. In February 2018, an additional four convicted persons were transferred to Benin to serve their sentences. Of the 30 persons convicted by the International Criminal Tribunal for Rwanda who are currently serving their sentences, 12 are in Mali, 14 are in Benin and 4 are in Senegal. Two convicted persons remain at the United Nations Detention Facility in Arusha, pending transfer to an enforcement State.

84. Sixteen persons convicted by the International Tribunal for the Former Yugoslavia are currently serving their sentences under the supervision of the Mechanism. Those individuals are serving their sentences in nine States: Denmark (1), Estonia (3), Finland (2), France (1), Germany (4), Italy (1), Norway (1), Poland (2) and Sweden (1). Six convicted persons are at the United Nations Detention Unit in The Hague, awaiting transfer to enforcement States. The Registrar continued negotiations with potential enforcement States concerning the possible enforcement of their sentences.

85. The Mechanism is deeply grateful to the above-mentioned States for their ongoing engagement in the enforcement of sentences.

86. The Mechanism, in coordination with national authorities and the United Nations Development Programme, continued efforts to address the recommendations of the relevant inspecting bodies charged with examining the conditions of detention in enforcement States, as well as the recommendations of an independent prison management expert engaged by the Mechanism.

87. The Mechanism also recently engaged an expert on ageing in prison and associated vulnerabilities. In March 2018, the expert inspected the prison conditions of the persons serving their sentences in Mali and Benin under the supervision of the Mechanism and will issue recommendations to the Mechanism in due course.

88. The Mechanism continued to monitor closely the particular security situation in Mali and received advice and reports from the Department of Safety and Security of the Secretariat and the designated security official in Mali.

89. It is the goal of the Mechanism to complete the transfer of all convicted persons currently held at the United Nations Detention Facility in Arusha or the United Nations Detention Unit in The Hague to enforcement States in the course of 2018, subject to the cooperation of States.

90. The functions related to the supervision of the enforcement of sentences carried out under the authority of the President will continue until the last prison sentence has been served, subject to the application of rule 128 of the Rules of Procedure and Evidence of the Mechanism, which allows for the possibility of designating another body to supervise the enforcement of sentences after the Mechanism ceases to exist, in the event that any convicted person remains imprisoned in an enforcement State at that time.

91. As set forth in the report of the Secretary-General mentioned above, it is not possible to foresee when or how often requests for pardon and commutation of sentence may arise. Nevertheless, it was stated in that report that, in general terms, such issues were more likely to arise within a period of 10 to 15 years after the closure of the Tribunals and that the level of work involved would inevitably decrease over time. It was also stated that the two Tribunals estimated that applications for commutation of sentence, pardon or early release could be expected until at least 2027 for cases of the International Tribunal for the Former Yugoslavia and until around 2030 for cases of the International Criminal Tribunal for Rwanda. That estimate, which was made in 2009, requires a slight adjustment, given the fact that several individuals currently serving life sentences will not be eligible for consideration of pardon, commutation of sentence or early release until at least 2035, even though they may seek such relief before that time.

X. Relocation of acquitted and released persons

92. The Mechanism continued to deploy focused efforts to facilitate sustainable solutions for the resettlement of acquitted and released persons and to provide those still residing in Arusha with relevant assistance, in line with the Strategic Plan for the Relocation of Acquitted and Released Persons. The number of acquitted and released persons in Arusha remained at 11 during the reporting period.

93. Through its consistent approach of seeking consensual relocation outcomes, the Mechanism continued to engage bilaterally with States that had, in principle, indicated willingness to accept one or more of those persons. The Mechanism also supported the private relocation efforts of acquitted and released persons by engaging with relevant government officials during the reporting period. Furthermore, the Registrar pursued high-level exploratory contacts with other relevant States in that regard.

94. The Mechanism remains fully dependent upon the goodwill of States in accepting acquitted and released persons for relocation in their countries. In view of the experience to date and the numbers of individuals concerned, it remains unlikely that the Mechanism's efforts will lead to a relocation of all individuals concerned within the foreseeable future; nevertheless, the Mechanism will continue to seek to achieve appropriate bilateral outcomes with relevant States. The Mechanism remains grateful to the Security Council and individual States for their ongoing support for relocation efforts in order to resolve this long-standing challenge, which will persist until such time as all acquitted and released individuals are appropriately relocated or are deceased.

XI. Archives and records

95. In accordance with article 27 of its statute, the Mechanism has responsibility for the management, including preservation and access, of the archives of the Mechanism and the two Tribunals, which are co located with the respective branches of the Mechanism. The management of the archives includes responsibility for the preservation, arrangement and description of records, their security and the provision of access thereto.

96. The archives include records concerning: investigations, indictments and court proceedings; the protection of witnesses; the detention of accused persons; and the enforcement of sentences. The archives also include documents from States, other law enforcement authorities, international and non-governmental organizations and other stakeholders. The records exist in both digital and physical formats and consist of documents, maps, photographs, audiovisual recordings and objects. The Mechanism Archives and Records Section has been tasked with preserving the records and facilitating the widest possible access to them, while ensuring the continued protection of confidential information, including that concerning protected witnesses.

97. The Mechanism Archives and Records Section in Arusha is currently responsible for the management of more than 2,000 linear metres of physical records of both the International Criminal Tribunal for Rwanda and the Mechanism. The Section is also responsible for the periodic disposition of the records that have temporary value, in accordance with established retention policies. During the reporting period, this entailed the authorized destruction of 106 linear metres of records. The Mechanism will rem in responsible for the management of the records of the Tribunal that have been designated for permanent retention, as well as the records of archival value generated by the Mechanism at the Arusha branch.

98. The Mechanism Archives and Records Section in The Hague is currently responsible for the management of more than 2,400 linear metres of physical records from the International Tribunal for the Former Yugoslavia and the Mechanism. The Tribunal transferred the last of its physical records (772 linear metres) to the Mechanism during the reporting period. The Section initiated a preservation assessment survey of the physical records of the Tribunal and a project to repackage, to archival standards, maps and artefacts from the Tribunal's judicial archives.

99. Furthermore, during the reporting period, the International Tribunal for the Former Yugoslavia completed the disposition of its digital records. The Mechanism Archives and Records Section now manages a total of 2,753.045 terabytes of digital records from the Tribunals and the Mechanism.

100. Most of the digital records of the Tribunals will be incorporated into the Mechanism's digital preservation system to safeguard their long-term integrity, reliability and usability. During the reporting period, the work commenced with the ingestion of approximately 1,000 gigabytes of digital records at the branch in The Hague, including more than 40,000 files in a variety of formats. This marks a major milestone in the preservation of digital records at the Mechanism. The work will continue at both branches in the coming years.

101. The updating of the public interfaces to access and search judicial records of the Tribunals and the Mechanism continued throughout the reporting period. Over 350,000 judicial records, including approximately 12,000 hours of audiovisual recordings, are currently available to the public through the interfaces. During the reporting period, the records were accessed by more than 12,500 users from around the world.

102. The Mechanism received and responded to more than 60 requests for access to records under the Mechanism's policy on access during the reporting period. Many of those requests were for copies of audiovisual recordings of courtroom proceedings.

103. The Mechanism Archives and Records Section continued its efforts to enhance efficiency and effectiveness and to improve working practices through the development and implementation of a comprehensive governance framework for the management of archives and records. Those efforts included the development of key archives and record-keeping strategies to ensure compliance with best practices, as well as policy instruments for their transparent and consistent implementation, such as the finalization of a manual for the arrangement and description of archives managed by the Section.

104. The Mechanism Archives and Records Section continued its programme of exhibitions and events to bring attention to the Mechanism's archives. A standing exhibition entitled "ICTY: Looking Back", marking the twenty-fifth anniversary of the founding of the International Tribunal for the Former Yugoslavia, was presented at both branches of the Mechanism and featured selected materials from the Tribunal's archives.

105. As a result of the expenditure reduction plan, work to preserve a number of vulnerable records will be delayed, and these records will be at risk of permanent loss. Delays in providing access to records are also inevitable.

XII. Cooperation of States

106. Pursuant to article 28 of the statute of the Mechanism, States are required to cooperate with the Mechanism in the investigation and prosecution of persons covered under the statute and to comply with orders and requests for assistance in relation to cases before the Mechanism. States are also required to respect the statute of the Mechanism owing to its adoption by the Security Council pursuant to Chapter VII of the Charter of the United Nations. The Mechanism is dependent upon the cooperation of States.

107. The arrest and surrender of the remaining fugitives are a priority of the Mechanism. As described above, the Mechanism requires the full cooperation of States in relation to the ongoing fugitive-tracking operations conducted by the Prosecutor, and it continues the practice of the International Criminal Tribunal for Rwanda by calling for the assistance of relevant States in that respect. As also described above, the Mechanism relies on the cooperation of States for the enforcement of sentences.

108. The Mechanism continued to promote communication and cooperation with the Governments of Rwanda and of the States of the former Yugoslavia. The Mechanism will continue to discuss matters of mutual interest with the Rwandan authorities, including means by which cooperation with the Government can be enhanced, in line with paragraph 23 of Security Council resolution 2256 (2015). In that regard, the Mechanism's Kinyarwanda Unit, established at the beginning of 2016, has continued to translate trial judgments of the International Criminal Tribunal for Rwanda into Kinyarwanda. The translation of two such judgments, as well as of a number of decisions, was completed during the reporting period.

109. Representatives of the Mechanism, up to and including the level of the principals, also met with groups of victims and engaged with government officials from Rwanda and the States of the former Yugoslavia during the reporting period.

110. After the closure of the International Tribunal for the Former Yugoslavia, the Mechanism assumed the remaining responsibilities of the Tribunal with regard to facilitating the establishment of information and documentation centres in the region of the former Yugoslavia, in accordance with paragraph 15 of Security Council resolution 1966 (2010). During the reporting period, the Mechanism provided cooperation and technical support in relation to an information and documentation centre in Sarajevo, the opening of which is planned for 23 May 2018.

XIII. Assistance to national jurisdictions

111. In accordance with article 28 of the statute of the Mechanism, the Mechanism shall respond to requests for assistance from national authorities in relation to the investigation, prosecution and trial of those responsible for serious violations of international humanitarian law in the countries of the former Yugoslavia and Rwanda.

112. The Mechanism routinely receives requests from national authorities or parties to national proceedings for assistance in relation to domestic proceedings concerning individuals allegedly implicated in the genocide in Rwanda or the conflicts in the former Yugoslavia. During the reporting period, the Mechanism also received and considered requests to vary the protective measures for witnesses and disclose their testimony and evidence (see sect. III above). Comprehensive information and guidance for those who wish to request assistance are available on the Mechanism's website.

113. The data concerning requests for assistance submitted to both branches of the Mechanism continued to be centralized into one repository. The branches also continued to exchange best practices for the development of policies and training programmes with a view to maximizing operational efficiency and ensuring that the Mechanism provides effective assistance to national jurisdictions.

114. During the reporting period, the Registry processed 96 requests for assistance from national jurisdictions and provided 28,865 documents. Nevertheless, as a result of the expenditure reduction plan, delays in providing access to records in response to requests from national jurisdictions are inevitable.

115. It is expected that activities linked to requests for assistance from national jurisdictions will continue concomitant to the investigation and prosecution of cases related to the genocide in Rwanda and the conflicts in the former Yugoslavia in domestic jurisdictions. A high demand for requests for assistance is expected to continue over the coming bienniums.

XIV. External relations

116. The core tasks of the External Relations Office, which has staff at both branches of the Mechanism, include developing and maintaining relations with relevant external stakeholders and informing the public about the Mechanism's work, including through the Mechanism's website and social media channels and by responding to media inquiries, organizing public events and producing informational materials.

117. At the branch in The Hague, the External Relations Office organized and facilitated the attendance of the media and the general public at a number of public judicial hearings during the reporting period. A total of 72 accredited journalists and 128 victims (or their representatives), diplomats, researchers and other members of the public attended the appeal hearings in the *Šešelj* case on 13 December 2017 and the *Karadžić* case on 23 and 24 April 2018, as well as the public pronouncement of

the appeal judgment in the *Šešelj* case on 11 April 2017. The live streaming on the Mechanism's website of the appeal hearings and the pronouncement of the appeal judgment received more than 12,000 views, posts on social media about the appeal hearings and the judgment reached 54,000 users, and the pronouncement of the appeal judgment in the *Šešelj* case was widely broadcast and covered in the print and digital media in the former Yugoslavia. The ongoing trial in the *Stanišić and Simatović* case was attended by 1,203 visitors, while the online streaming of the court sessions in the case received a total of 16,885 views during the reporting period.

118. Furthermore, the External Relations Office organized the inaugural International Organizations Open Day at the Mechanism's premises in Arusha on 25 November 2017, in partnership with other Arusha-based international institutions. More than 1,000 visitors attended and were given an opportunity to tour the courthouse complex, view the Mechanism's archives facility and attend presentations in the courtroom.

119. In cooperation with the Office of the Prosecutor, the External Relations Office developed and launched an online exhibition on the Mechanism's website on 28 November 2017 showcasing some of the evidence collected by the Office of the Prosecutor during investigations into crimes committed in Rwanda and the former Yugoslavia.

120. Overall, the Mechanism's website was visited over 180,000 times during the reporting period, an increase of over 75 per cent from the previous reporting period.

121. In addition to visitors attending special events or court proceedings, the Mechanism continued to welcome other visitors to its premises and to provide library services at both branches. The Arusha branch welcomed 791 visitors during the reporting period, including senior government officials, such as the Minister for Foreign Affairs of Germany and the Minister of Justice of Rwanda, and officials from African regional courts, as well as researchers and members of the public from the Great Lakes region and beyond. The Arusha library welcomed 489 visitors and processed a total of 2,596 enquiries, including research requests and loans. In The Hague, the External Relations Office welcomed groups comprising 1,332 visitors during the reporting period, while the library of the branch in The Hague processed 742 research requests and loans.

122. During the reporting period, services provided by the External Relations Office to the public had to be scaled down as a result of the expenditure reduction plan and the reduced staffing levels. The support provided by the External Relations Office for judicial events in April 2018 at the branch in The Hague had to be curtailed because the Office was unable to fully accommodate interested media representatives and members of the public. In particular, fewer media inquiries could be responded to and the production of informational materials was limited.

XV. Reports of the Office of Internal Oversight Services

123. During the reporting period, the Mechanism continued to benefit from regular audits by OIOS and the implementation of its recommendations. In addition, OIOS completed an evaluation of the methods and work of the Mechanism. Two audit reports and one evaluation report were issued by OIOS during the reporting period.

124. The first audit report, issued in December 2017, assessed the readiness for management of trial and appeal hearings at the Mechanism. OIOS stated that the Mechanism was adequately prepared to conduct trial and appeal proceedings and did not make any recommendations. A subsequent audit, discussed below, considered the readiness of the Arusha courtroom to hold judicial hearings.

125. The second audit report, issued in February 2018, focused on the post-construction phase and occupancy of the new premises of the Mechanism in Arusha. OIOS made eight important recommendations, which the Mechanism accepted and is implementing. One recommendation has been closed, with the courtroom having been completed and now ready to hold trials and appeals. Progress towards the implementation of other recommendations has been made, such as the rerouting of water pipes and the water-based cooling system outside the building, the finalization of improvements to the firefighting equipment and the rectification of identified defects. Additionally, consultations with the Office of Legal Affairs continue with regard to contractual damages possibly available to the Mechanism.

126. In the evaluation report, issued in March 2018, OIOS assessed the relevance, efficiency and effectiveness of the methods and work of the Mechanism in implementing its mandate during the period 2016–2017, with a focus on its consolidation, coordination and organizational arrangements in becoming a self-standing institution across two branches. OIOS made six important recommendations and the Mechanism has begun their implementation. Among other steps, the Registry commenced the restructuring of the provision of administrative services at both branches to achieve further efficiencies. Furthermore, the Registry is planning a review of existing strategies to enhance cross-branch coordination and the development of scenario-based analysis and actionable risk mitigation plans with a view to increasing responsiveness to changes in the Mechanism's workload.

127. At the time of reporting, an audit on the liquidation of the International Tribunal for the Former Yugoslavia was ongoing. In addition, the Mechanism continued to implement recommendations made in earlier OIOS audits.

XVI. Conclusion

128. As recognized in the evaluation report issued by OIOS in March 2018, the Mechanism has made significant progress towards establishing itself as a small, temporary and efficient structure, the functions and size of which will diminish over time, with the capacity to respond to varying workloads and balance immediate demands against longer-term priorities. As likewise recognized by OIOS, while the Mechanism is mindful of its mandate to be temporary, some of its continuous functions are fulfilling long-term needs.

129. While it faces a number of challenges, including in relation to its current budgetary situation, the Mechanism continues to do its utmost to ensure the efficient and effective conduct and completion of the mandate entrusted to it. Its ability to achieve that aim will continue to depend upon the sustained and sustaining support from its host States, the United Republic of Tanzania and the Netherlands, as well as from Rwanda, the States of the former Yugoslavia and individual States Members of the United Nations with respect to specific issues. The Mechanism also acknowledges with gratitude the significant assistance it continues to receive from the Office of Legal Affairs and the Department of Management of the Secretariat, as well as the vital cooperation provided by the International Criminal Tribunal for Rwanda and the International Tribunal for the Former Yugoslavia prior to their respective closures. All of these contributions, as well as the dedication of the Mechanism's judges and staff, are crucial to the success of the Mechanism as it continues to carry out and complete its functions and to serve as an embodiment of the commitment of the United Nations to accountability and the rule of law.

Enclosure 1

International Residual Mechanism for Criminal Tribunals: staffing*

Table 1
Number of staff by branch and organ

Category	*Arusha branch*	*The Hague branch*	*Chambers[a]*	*Office of the Prosecutor*	*Registry[b]*	*Mechanism overall*
All staff	155	354	32	85	392	509
Staff on continuous posts	98	60	8	21	129	158
Staff on general temporary assistance positions	57	294	24	63	264	351
International staff (Professional and Field Service)	82	153	24	55	156	235
Local staff (General Service)	73	201	8	29	237	274

[a] Chambers staffing data include the Office of the President and exclude judges.
[b] Registry staffing data include: Immediate Office of the Registrar; Archives and Records Section; Witness Support and Protection; Conference Support Services; Language Support Services; Public Relations; Office for Legal Aid and Defence; Administration; and Security, including at the United Nations Detention Facility and the United Nations Detention Unit.

Table 2
Geographical representation, by regional group

	Arusha branch	*The Hague branch*	*Mechanism overall (percentage)*
Nationalities	**38**	**59**	**72**
All staff			
Africa	119	22	141 (28)
Asia-Pacific	8	22	30 (6)
Eastern Europe	4	83	87 (17)
Latin America and the Caribbean	2	7	9 (2)
Western Europe and other States	22	220	242 (47)
International staff (Professional and Field Service)			
Africa	46	9	55 (23)
Asia-Pacific	8	8	16 (7)
Eastern Europe	4	35	39 (17)
Latin America and the Caribbean	2	3	5 (2)
Western Europe and other States	22	98	120 (51)
Local staff (General Service)			
Africa	73	13	86 (31)
Asia-Pacific	–	14	14 (5)
Eastern Europe	–	48	48 (18)
Latin America and the Caribbean	–	4	4 (1)
Western Europe and other States	–	122	122 (45)

(Footnotes on following page)

* The data in the present enclosure represent the number of staff employed as at 4 May 2018.

(Footnotes to table 2)

African Group: Algeria, Burkina Faso, Burundi, Cameroon, Congo, Democratic Republic of the Congo, Egypt, Gambia, Ghana, Guinea, Kenya, Lesotho, Liberia, Madagascar, Mali, Niger, Nigeria, Rwanda, Senegal, Sierra Leone, South Africa, Sudan, Uganda, United Republic of Tanzania, Zambia and Zimbabwe.

Asia-Pacific Group: China, Cyprus, Fiji, India, Indonesia, Iraq, Lebanon, Nepal, Pakistan, Philippines, Republic of Korea, Samoa and Thailand.

Eastern European Group: Bosnia and Herzegovina, Bulgaria, Croatia, Czechia, Latvia, Poland, Romania, Russian Federation, Serbia, the former Yugoslav Republic of Macedonia and Ukraine.

Latin American and Caribbean Group: Bolivia (Plurinational State of), Brazil, Cuba, Haiti, Jamaica and Mexico.

Western European and Other States Group: Australia, Austria, Belgium, Canada, Denmark, Finland, France, Germany, Ireland, Italy, Netherlands, New Zealand, Spain, Sweden, United Kingdom of Great Britain and Northern Ireland and United States of America.

Table 3
Gender representation

	Arusha branch	*The Hague branch*	*Mechanism overall (percentage)*
Professional staff (all levels)	36	153	189
Male	25	59	84 (44)
Female	12	94	106 (56)
Professional staff (P-4 and above)	14	65	79
Male	11	26	37 (47)
Female	3	39	42 (53)

Table 4
Staff by organ

	Arusha branch	*The Hague branch*	*Mechanism overall*
Chambers (including the Office of the President)	5	27	32
Office of the Prosecutor	16	69	85
Registry	134	258	392
Immediate Office of the Registrar	9	14	23
Archives and Records Section	19	11	30
Witness Support and Protection	10	17	27
Conference Support Services	–	18	18
Language Support Services	6	46	52
Public Relations	2	7	9
Office for Legal Aid and Defence	–	3	3
Administration	29	82	111
Security (including United Nations Detention Facility and United Nations Detention Unit)	59	60	119

Enclosure 2

International Residual Mechanism for Criminal Tribunals: information relating to costs

Table 1

Commitment authority for 2018 (net of staff assessment), by branch and organ[a]

(United States dollars)

Branch	*Post and non-post[b]*	*Chambers*	*Office of the Prosecutor*	*Registry*	*Liabilities: pensions of former judges of the International Criminal Tribunal for Rwanda and the International Tribunal for the Former Yugoslavia, and after-service health insurance of former staff of both Tribunals*	*Mechanism*
Arusha	Post	–	1 639 600	11 301 900	–	12 941 500
	Non-post	1 250 700	2 963 200	17 337 500	1 622 050	23 173 450
	Subtotal	**1 250 700**	**4 602 800**	**28 639 400**	**1 622 050**	**36 114 950**
The Hague	Post	–	1 293 400	5 129 500	–	6 422 900
	Non-post	1 759 800	4 820 100	29 253 600	1 622 050	37 455 550
	Subtotal	**1 759 800**	**6 113 500**	**34 383 100**	**1 622 050**	**43 878 450**
Overall	Post	–	2 933 000	16 431 400	–	19 364 400
	Non-post	3 010 500	7 783 300	46 591 100	3 244 100	60 629 000
	Total	**3 010 500**	**10 716 300**	**63 022 500**	**3 244 100**	**79 993 400**

[a] Commitment authority approved by the General Assembly in resolution 72/258 for the period from 1 January to 31 December 2018.

[b] Non-post includes all commitment items other than posts, such as general temporary assistance, travel and rental of premises.

Table 2

Expenditures (net of staff assessment) as at 1 May 2018 (per Umoja), by branch and organ

(United States dollars)

Branch	*Post and non-post[a]*	*Chambers*	*Office of the Prosecutor*	*Registry*	*Liabilities: pensions of former judges of the International Criminal Tribunal for Rwanda and the International Tribunal for the Former Yugoslavia, and after-service health insurance of former staff of both Tribunals*	*Mechanism*
Arusha	Post	–	731 256	2 719 498	–	3 450 754
	Non-post	100 086	193 378	3 208 901	960 972	4 463 338
	Subtotal	**100 086**	**924 634**	**5 928 400**	**960 972**	**7 914 092**
The Hague	Post	–	419 568	1 792 834	–	2 212 402
	Non-post	854 710	2 448 303	13 468 671	488 018	17 259 702
	Subtotal	**854 710**	**2 867 871**	**15 261 505**	**488 018**	**19 472 105**
Overall	Post	–	1 150 824	4 512 333	–	5 663 156
	Non-post	954 796	2 641 682	16 677 572	1 448 990	21 723 040
	Total	**954 796**	**3 792 505**	**21 189 905**	**1 448 990**	**27 386 196**

[a] Non-post includes all commitment items other than posts, such as general temporary assistance, travel and rental of premises.

Table 3
Percentage of commitment authority expended as at 1 May 2018, by branch and organ

Branch	*Post and non-post*[a]	*Chambers*	*Office of the Prosecutor*	*Registry*	*Liabilities: pensions of former judges of the International Criminal Tribunal for Rwanda and the International Tribunal for the Former Yugoslavia, and after-service health insurance of former staff of both Tribunals*	*Mechanism*
Arusha	Post	–	44.6	24.1	–	26.7
	Non-post	8.0	6.5	18.5	59.2	19.3
	Subtotal	**8.0**	**20.1**	**20.7**	**59.2**	**21.9**
The Hague	Post	–	32.4	35.0	–	34.4
	Non-post	48.6	50.8	46.0	30.1	46.1
	Subtotal	**48.6**	**46.9**	**44.4**	**30.1**	**44.4**
Overall	Post	–	39.2	27.5	–	29.2
	Non-post	31.7	33.9	35.8	–	35.8
	Total	**31.7**	**35.4**	**33.6**	**44.7**	**34.2**

[a] Non-post includes all commitment items other than posts, such as general temporary assistance, travel and rental of premises.

Annex II

Progress report of the Prosecutor of the International Residual Mechanism for Criminal Tribunals, Serge Brammertz, for the period from 16 November 2017 to 15 May 2018

I. Overview

1. The Prosecutor submits this twelfth progress report pursuant to Security Council resolution 1966 (2010), covering developments between 16 November 2017 and 15 May 2018.

2. During the reporting period, the Office of the Prosecutor of the Mechanism continued to focus on three priorities: (a) the expeditious completion of trials and appeals; (b) locating and arresting the eight remaining fugitives indicted by the International Criminal Tribunal for Rwanda; and (c) assisting national jurisdictions prosecuting international crimes committed in Rwanda and in the former Yugoslavia. The Office relies on the full cooperation of States to carry out its mandate successfully in those areas.

3. The Office of the Prosecutor continued to engage in intense trial and appeal work during the reporting period. The Appeals Chamber of the International Tribunal for the Former Yugoslavia issued its judgment in the *Šešelj* case, granting the Prosecution's appeal in part, convicting the accused for crimes against humanity and entering a sentence of 10 years of imprisonment. The trial in the *Stanišić and Simatović* case continued, and the Prosecution is close to completing the presentation of its evidence-in-chief. The Office also presented its oral appeal arguments in the *Karadžić* case and commenced preparation of its written appeal arguments in the *Mladić* case. As previously reported, in addition to the trial and appeal activity in The Hague, the Office processed at both branches a high volume of other litigation arising from completed cases.

4. The Office of the Prosecutor continued its efforts to locate and track the remaining fugitives. The Office made progress in understanding how the fugitives had supported and sustained themselves while evading justice. The Office expresses its appreciation to the International Criminal Police Organization (INTERPOL), the Government of Rwanda and other partners for supporting the Office's efforts to locate and arrest the remaining fugitives.

5. Regarding national prosecutions of war crimes committed in Rwanda, the Office of the Prosecutor, within existing resources, continued to monitor cases referred to the Rwandan and French authorities, to provide national justice sectors with access to the evidence collection of the Mechanism and to support national accountability for those crimes.

6. Regarding national prosecutions of war crimes committed in the former Yugoslavia, the closure of the International Tribunal for the Former Yugoslavia at the end of 2017 marked the end of the first phase of the completion strategy. It also marked the beginning of the next chapter. With the Tribunal's closure, further accountability for the crimes now depends fully on national judiciaries in the countries of the former Yugoslavia. While national courts have achieved progress so far, albeit unevenly among different countries, far more remains to be done, particularly in processing senior- and mid-level suspects who worked together with or were subordinate to senior-level war criminals prosecuted and convicted by the Tribunal. As national courts in the former Yugoslavia now continue the implementation of the completion strategy, it is essential to ensure that there is

continuity in engagement with national war crimes justice and that support for national judiciaries is further strengthened.

7. In managing its work, the Office of the Prosecutor continued to be guided by the views and requests of the Security Council as set forth in, inter alia, paragraphs 18 to 20 of its resolution 2256 (2015).

II. Trials and appeals

8. During the reporting period, the Office of the Prosecutor worked on one trial (*Stanišić and Simatović*) and three appeals proceedings (*Karadžić*, *Mladić* and *Šešelj*) arising from cases transferred from the International Tribunal for the Former Yugoslavia pursuant to the statute of the Mechanism and the transitional arrangements (Security Council resolution 1966 (2010), annexes 1 and 2). The *Šešelj* case has now been completed, leaving only one trial and two appeals proceedings. This ad hoc judicial activity is temporary in nature, and the Office is taking all steps under its control to expedite the completion of those final proceedings.

A. Update on the progress of trials

9. On 15 December 2015, the Appeals Chamber of the International Tribunal for the Former Yugoslavia reversed the trial judgment in the *Stanišić and Simatović* case and ordered the case to be retried on all counts. Pursuant to the statute of the Mechanism and the transitional arrangements, the retrial is being conducted by the Mechanism. The trial proceedings in the case commenced on 13 June 2017.

10. At the direction of the Trial Chamber, the sitting schedule is limited to three consecutive days per week in the case. On 6 March 2018, the Trial Chamber rejected the Prosecution's motion to extend the sitting schedule to four 4-hour sessions per week. Since the beginning of the Prosecution's case-in-chief in June 2017, the Prosecution has led the evidence of 34 witnesses in court (27 pursuant to rule 111 and 7 pursuant to rule 116 of the Rules of Procedure and Evidence), all but one of whom were cross-examined by the Defence. The Prosecution also tendered, and the Chamber admitted, the written evidence of 45 witnesses (18 witnesses pursuant to rule 110, 20 witnesses pursuant to rule 112 and 7 who were submitted by agreement among the parties pursuant to rule 111). The Prosecution further submitted 2,273 exhibits totalling 36,979 pages. In the context of the decision of the Trial Chamber to limit the evidence the Prosecution is allowed to lead, the Prosecution filed and litigated 60 motions for the admission of evidence. The Prosecution also responded to 45 motions filed by the Defence in the case.

11. The Prosecution anticipates that it will conclude the presentation of its evidence in July or August 2018.

B. Update on the progress of appeals

1. *Karadžić*

12. On 24 March 2016, the Trial Chamber of the International Tribunal for the Former Yugoslavia unanimously convicted Radovan Karadžić for genocide, crimes against humanity and war crimes and sentenced him to a term of imprisonment of 40 years. On 5 December 2016, the Office of the Prosecutor filed its appeal brief against the trial judgment. The Office identified four grounds of appeal, including against the acquittal for genocide in 1992 and the imposed sentence. The Defence also filed its

appeal brief, which set out 50 grounds of appeal. The Office completed the written appeals briefing in the case on 6 April 2017.

13. During the reporting period, the Office presented its oral appeal arguments during the hearing held on 23 and 24 April 2018. The Prosecution provided its responses to Karadžić's 50 grounds of appeal, which included detailed matters of both fact and law. The Prosecution also provided its arguments and replies in relation to its four grounds of appeal.

2. *Šešelj*

14. On 31 March 2016, a Trial Chamber of the International Tribunal for the Former Yugoslavia, by majority, acquitted Vojislav Šešelj on all counts of the indictment. The Office of the Prosecutor filed its appeal brief on 18 July 2016. The Office put forward two grounds of appeal, arguing that the Trial Chamber had erred in law by failing to deliver a reasoned judgment and that the Trial Chamber had erred in fact by acquitting the accused. The Office completed the written appeal briefing in the case on 22 February 2017, and the oral appeal hearing took place on 13 December 2017.

15. On 11 April 2018, the Appeals Chamber partly granted the Prosecution's appeal and convicted Šešelj for instigating persecution (forcible displacement), deportation and other inhumane acts (forcible transfer) as crimes against humanity and for committing persecution (violation of the right to security) as a crime against humanity. Šešelj was sentenced to 10 years of imprisonment. The Appeals Chamber declared that the sentence was served in view of Šešelj's time spent in provisional detention.

3. *Mladić*

16. On 22 November 2017, a Trial Chamber of the International Tribunal for the Former Yugoslavia unanimously convicted Ratko Mladić of genocide, terror, persecution, extermination, murder, unlawful attacks on civilians, deportation, inhumane acts and hostage-taking, and sentenced him to life imprisonment. The trial commenced on 16 May 2012, and the hearing of evidence lasted for 530 trial days over four years, during which the evidence of 592 witnesses and nearly 10,000 exhibits were introduced by the parties. The closing arguments were held from 5 to 15 December 2016.

17. The Trial Chamber found Mladić responsible for participating in four joint criminal enterprises to commit genocide, crimes against humanity and/or war crimes and accordingly convicted him for the crimes committed in furtherance of those criminal enterprises. First, the so-called "overarching joint criminal enterprise", which existed between 1991 and November 1995, had the objective of permanently removing Bosnian Muslims and Bosnian Croats from Bosnian Serb-claimed territory through the commission of crimes in municipalities throughout Bosnia and Herzegovina. Second, the so-called "Sarajevo joint criminal enterprise", which existed between May 1992 and November 1995, aimed to spread terror among the civilian population of Sarajevo through a campaign of sniping and shelling. Third, the so-called "hostage-taking joint criminal enterprise", which existed between 25 May and 24 June 1995, had the common purpose of taking United Nations personnel hostage to compel the North Atlantic Treaty Organization to abstain from conducting air strikes against Bosnian Serb targets. Fourth, the so-called "Srebrenica joint criminal enterprise", which existed in 1995, had the objective of destroying the Bosnian Muslims in Srebrenica by killing the men and boys and forcibly removing the women, young children and some elderly men. By majority, the Trial Chamber further found that perpetrators in several other municipalities had intended to destroy the Bosnian Muslims in those municipalities. However, the Trial Chamber was not

satisfied beyond reasonable doubt that the Bosnian Muslims targeted in each municipality constituted substantial parts of the protected group.

18. On 22 March 2018, the Office of the Prosecutor filed its notice of appeal against the trial judgment, identifying two grounds of appeal. On the same date, the Defence also filed its notice of appeal, which set out nine grounds of appeal. The Office is now preparing its written appeal brief, which will be followed by its response brief and its reply brief.

C. Cooperation with the Office of the Prosecutor

19. The Office of the Prosecutor of the Mechanism continues to rely on the full cooperation of States to successfully complete its mandate. The Office's access to documents, archives and witnesses is critical for ongoing trial and appeal proceedings of the Mechanism and for locating and arresting fugitives and witness protection.

20. During the reporting period, the cooperation of Bosnia and Herzegovina, Croatia, Rwanda and Serbia with the Office of the Prosecutor of the Mechanism remained satisfactory. The Office continues to require assistance in relation to trial, appeal, review and contempt proceedings, including the provision of evidence and access to witnesses, and fully expects that its requests for assistance will be promptly and adequately processed.

21. Cooperation and support from States outside Rwanda and the former Yugoslavia, as well as from international organizations, remain integral to the successful completion of Mechanism activities. The Office of the Prosecutor again acknowledges the support it received during the reporting period from Member States and international organizations, including the United Nations and its agencies, the European Union, the North Atlantic Treaty Organization, the Organization for Security and Cooperation in Europe (OSCE) and INTERPOL.

22. The international community continues to play an important role in providing incentives for States to cooperate with the Mechanism and to undertake national prosecutions of war crimes. The policy of conditionality of the European Union, linking membership progress to full cooperation with the International Tribunal for the Former Yugoslavia and with the Mechanism, remains a key tool for ensuring continued cooperation with the Mechanism and consolidating the rule of law in the former Yugoslavia. Assistance is also increasingly needed to support the national prosecution of war crimes cases in Rwanda and in the former Yugoslavia.

III. Fugitives

23. As at the end of the reporting period, eight fugitives indicted by the International Criminal Tribunal for Rwanda remained at large. The Office of the Prosecutor of the Mechanism continued its efforts to locate and arrest the three fugitives whose cases will be tried by the Mechanism: Félicien Kabuga, Protais Mpiranya and Augustin Bizimana. The Office also continued to search for information on the whereabouts of the five fugitives who are currently expected to be brought to trial in Rwanda following their arrest: Fulgence Kayishema, Charles Sikubwabo, Aloys Ndimbati, Ryandikayo and Phénéas Munyarugarama.

24. During the reporting period, the Office made progress in understanding how the fugitives had supported and sustained themselves while evading justice. Valuable new intelligence and leads are being generated through the Office's tracking activities and the regular cooperation of participants in the European and African Task Forces. This is allowing the Office to develop a clearer picture of the strategies that the fugitives

have put in place, including the use of support networks and seeking the protection of influential persons.

25. The Office reiterates that under the War Crimes Rewards Programme of the Government of the United States of America, individuals (not including government officials) who provide information leading to the arrest of a fugitive may be eligible for a monetary reward of up to $5 million. The Office recalls that Member States are obligated by international law to cooperate in the search for the fugitives and encourages them to further strengthen their assistance to this vital work.

IV. Assistance to national war crimes prosecutions

26. National prosecutions are now essential to achieving greater justice for the victims of war crimes, crimes against humanity and genocide committed in the former Yugoslavia and Rwanda. In line with the completion strategies of the Tribunals, Security Council resolutions 1966 (2010) and 2256 (2015) and the statute of the Mechanism, the Office of the Prosecutor is mandated to assist and support effective national prosecutions of those crimes. In the affected countries, the effective prosecution of the crimes committed is fundamental to building and sustaining the rule of law, establishing the truth of what occurred and promoting reconciliation. Third-party States are also undertaking prosecutions against suspects who are present in their territories for crimes committed in Rwanda and the former Yugoslavia.

27. The Office continued its efforts, within existing resources, to monitor, support and advise national judicial authorities prosecuting war crimes cases arising from the conflicts in Rwanda and the former Yugoslavia. The Office maintains an ongoing dialogue with those authorities and undertakes a range of initiatives to assist and build capacity in national criminal justice sectors.

A. War crimes committed in Rwanda

28. Five cases referred by the International Criminal Tribunal for Rwanda under rule 11 bis of its Rules of Procedure and Evidence are currently being processed in the national courts of France and Rwanda. The cases against Wenceslas Munyeshyaka and Laurent Bucyibaruta were referred to France in 2007. Jean Uwinkindi, Bernard Munyagishari and Ladislas Ntaganzwa were transferred to Rwanda in 2012, 2013 and 2016, respectively. All proceedings are ongoing.

1. Cases referred to France

29. Wenceslas Munyeshyaka, an ordained Catholic priest, was indicted by the International Criminal Tribunal for Rwanda in July 2005 on four counts, namely genocide, rape as a crime against humanity, extermination as a crime against humanity and murder as a crime against humanity. The Tribunal referred the indictment to France for trial on 20 November 2007. As previously reported, the investigation by the French authorities in the *Munyeshyaka* case has not resulted in charges being brought against the suspect. On the recommendation of the Paris Public Prosecutor, the investigating judge on 2 October 2015 issued a decision to dismiss the case, which the civil parties appealed. The appeal hearing took place before the Investigation Chamber of the Court of Appeals of Paris on 31 January 2018. A decision is expected to be rendered on 21 June 2018.

30. Laurent Bucyibaruta, the prefect of Gikongoro Prefecture, was indicted by the International Criminal Tribunal for Rwanda in June 2005 on six counts, namely direct and public incitement to commit genocide, genocide, complicity in genocide,

extermination as a crime against humanity, murder as a crime against humanity and rape as a crime against humanity. The Tribunal referred the indictment to France for trial on 20 November 2007. The investigation by the French authorities has now been completed. The Prosecutor's Office is expected to submit its final conclusions to the investigating judge by June 2018. It will be some months before a decision by the investigating judge on whether to proceed to trial can be expected.

31. Although the Office of the Prosecutor recognizes the challenges the French judiciary has faced in processing those cases, the Office remains concerned by the self-evidently slow progress. In both cases, the International Criminal Tribunal for Rwanda referred confirmed indictments to France in 2007, yet the cases have been at the investigative phase or pretrial phase for over 10 years. The Office of the Prosecutor urges the French authorities to prioritize those cases and to ensure that further decisions are taken expeditiously.

2. Cases referred to Rwanda

32. Jean Uwinkindi, a pastor in the Pentecostal Church, was indicted by the International Criminal Tribunal for Rwanda in September 2001 on three counts, namely genocide, conspiracy to commit genocide and extermination as a crime against humanity. He was transferred to Rwanda for trial on 19 April 2012, and the trial commenced on 14 May 2012. On 30 December 2015, the High Court of Rwanda issued its trial judgment, convicting Uwinkindi and sentencing him to life imprisonment. Appeals proceedings are under way.

33. Bernard Munyagishari, a local leader in the *Mouvement républicain national pour la démocratie et le développement* party, was indicted by the International Criminal Tribunal for Rwanda in September 2005 on five counts, namely conspiracy to commit genocide, genocide, complicity in genocide, murder as a crime against humanity and rape as a crime against humanity. He was transferred to Rwanda for trial on 24 July 2013. On 20 April 2017, the High Court of Rwanda issued its trial judgment, convicting Munyagishari of genocide and murder as a crime against humanity, acquitting him of rape as a crime against humanity and sentencing him to life imprisonment. Appeals proceedings are under way.

34. Ladislas Ntaganzwa, mayor of Nyakizu commune, was indicted by the International Criminal Tribunal for Rwanda in June 1996, with the amended indictment charging him with five counts, namely genocide, direct and public incitement to commit genocide, extermination as a crime against humanity, murder as a crime against humanity and rape as a crime against humanity. He was transferred to Rwanda for trial on 20 March 2016. Trial proceedings are under way.

B. War crimes committed in the former Yugoslavia

1. Completion strategy of the International Tribunal for the Former Yugoslavia

35. As the Office of the Prosecutor of the International Tribunal for the Former Yugoslavia emphasized in its final completion strategy report (S/2017/1001), the completion strategy of the Tribunal has always foreseen that the end of the Tribunal's mandate would not be the end of justice for war crimes committed in the former Yugoslavia, but the beginning of the next chapter. With the closure of the Tribunal, further accountability for the crimes now depends fully on national judiciaries in the countries of the former Yugoslavia.

36. The final completion strategy report of the Office of the Prosecutor of the International Tribunal for the Former Yugoslavia sets out the achievements of the Tribunal in implementing the completion strategy and achieving justice for the crimes

committed during the conflicts in the former Yugoslavia. The Office secured the conviction of 90 individuals for war crimes, grave breaches of the Geneva Conventions, crimes against humanity and/or genocide. The persons convicted include senior political and military officials from nearly all parties to the conflicts. It was proved repeatedly that during the conflicts, leaders pursued their political and military goals through the commission of crimes. The organized criminal campaigns led to millions of refugees and internally displaced persons and more than 100,000 deaths. The Tribunal's work has created a solid foundation for national judiciaries to continue to implement the completion strategy and secure more justice for more victims.

37. Fifteen years after the adoption of the completion strategy, national judiciaries have achieved progress in accountability for war crimes, albeit unevenly among different countries. The greatest progress has been made in Bosnia and Herzegovina. Croatia has also processed a large number of cases, although many were proceedings in absentia. To date, a much smaller number of cases have been completed in Serbia, while the Montenegrin authorities have completed very few cases. Looking forward, national judiciaries continue to face a very large backlog of war crimes cases to process, with several thousand cases remaining across the region. Most importantly, much more remains to be done to bring to justice senior- and mid-level suspects who worked together with or were subordinate to senior-level war criminals prosecuted and convicted by the International Tribunal for the Former Yugoslavia. The cases against many senior- and mid-level officials, in particular military and police commanders, connected with crimes established by the Tribunal have not yet been processed. As those crimes have already been established beyond reasonable doubt and the most senior officials held accountable for the crimes, it must be expected that related cases against associated senior- and mid-level suspects can be processed expeditiously and effectively.

38. With the closure of the International Tribunal for the Former Yugoslavia, it is essential to ensure that there is continuity in engagement with the national war crimes justice process and that support to national judiciaries is further strengthened. Experience so far in the implementation of the completion strategy offers a number of valuable lessons learned. The direct engagement of the Office of the Prosecutor of the Tribunal was essential to promoting progress and resolving challenges. National authorities have requested the Office of the Prosecutor of the Mechanism to continue that direct engagement, and the Office is committed to deepening the support it provides, in particular by providing evidence, capacity-building and assistance in concrete cases. Similarly, financial and technical support from partners, in particular from the European Union, has been critical to the progress achieved. In particular, the support provided to war crimes justice in Bosnia and Herzegovina by the Instrument for Pre-accession Assistance of the European Union is a model that has delivered tangible results and could be replicated elsewhere in the region. Finally, it is clear that with strong political and diplomatic support from the international community, justice for war crimes can be achieved in national courts, but if support for accountability is low on the agenda, positive trends will be reversed and impunity will move to the forefront. For national courts to succeed in continuing the implementation of the completion strategy, it is critical that international organizations such as the United Nations and the European Union and individual Member States continue to fully support and strengthen their assistance to the national war crimes justice process.

2. Regional judicial cooperation

39. Judicial cooperation between the countries of the former Yugoslavia is essential to ensure that those responsible for war crimes are held accountable. Many suspects

may not be present in the territory where they are alleged to have committed the crimes and cannot be extradited to the territorial State for prosecution. The Offices of the Prosecutor of the International Tribunal for the Former Yugoslavia and of the Mechanism have repeatedly called attention to the negative trends in regional judicial cooperation in war crimes justice.

40. In its tenth progress report (S/2017/434, annex II), the Office of the Prosecutor of the Mechanism reported that judicial cooperation between Serbia and Kosovo[2] in war crimes matters had broken down. This situation has not improved and creates an undeniable barrier to justice. The Serbian authorities report that all requests for assistance to justice authorities in Kosovo in relation to war crimes are refused on the grounds that the Serbian authorities do not have jurisdiction over crimes committed in Kosovo. The Office of the War Crimes Prosecutor of Serbia has further provided information showing that the refusal of the authorities in Kosovo to provide judicial cooperation has blocked specific cases from moving forward, including one case against a perpetrator in Serbia in which the filing of an indictment would require cooperation from Kosovo. The refusal of the authorities in Kosovo to provide judicial cooperation in war crimes matters to the Serbian authorities is legally untenable and fails to demonstrate a commitment to cooperation and good neighbourly relations. The Office of the Prosecutor of the Mechanism urges the authorities in Kosovo to reconsider their position and make all efforts to respond positively to requests for assistance from the Office of the War Crimes Prosecutor of Serbia.

41. Unfortunately, this situation is not unique in the region. As discussed more fully below, the Croatian authorities continue to refuse to provide judicial cooperation in relation to a large and growing number of war crimes cases originating in Bosnia and Herzegovina and Serbia. The Office of the Prosecutor of the Mechanism underscores that barriers to effective regional judicial cooperation in war crimes matters unavoidably lead to impunity and the denial of justice for the victims.

42. On a more positive note, the Office of the Prosecutor of the Mechanism recognizes the productive cooperation that has developed and continued between the Prosecutor's Office of Bosnia and Herzegovina and the Office of the War Crimes Prosecutor of Serbia, which the Office of the Prosecutor of the International Tribunal for the Former Yugoslavia first highlighted in its twenty-third completion strategy report (S/2015/342, annex II). Since January 2016, the Office of the War Crimes Prosecutor has filed indictments in more than 10 cases transferred from Bosnia and Herzegovina, although admittedly all cases concerned low-level perpetrators. The respective Chief Prosecutors both report that cooperation is strong and have expressed their willingness to further strengthen their cooperation. The Office of the Prosecutor of the Mechanism considers that the judicial cooperation in war crimes matters between the Prosecutor's Office of Bosnia and Herzegovina and the Office of the War Crimes Prosecutor of Serbia is a positive example for the region. The Office of the Prosecutor of the Mechanism will work with those partners to further improve their cooperation, in particular at the strategic level.

3. Bosnia and Herzegovina

43. The Office of the Prosecutor of the Mechanism continued to enjoy positive discussions with the Acting Chief War Crimes Prosecutor of Bosnia and Herzegovina about continued cooperation in war crimes justice. The Acting Chief Prosecutor underlined her desire for even closer cooperation and collaboration with the Office, including through assistance in concrete cases, strategic support and activities to transfer the lessons learned from the International Tribunal for the Former Yugoslavia.

[2] All references to Kosovo shall be understood as being in full compliance with Security Council resolution 1244 (1999).

The Office of the Prosecutor of the Mechanism is committed to continuing its support for the work of the Prosecutor's Office of Bosnia and Herzegovina, particularly in the mutual goal of successfully implementing the national war crimes strategy.

44. During the reporting period, the Prosecutor's Office of Bosnia and Herzegovina filed 29 indictments, maintaining a steady rate comparable to that observed in previous periods. Many indictments concerned low-level perpetrators, and the majority of indictments charged only a single accused. Nonetheless, the Prosecutor's Office continued to file important indictments in complex cases against senior- and mid-level officials, including against Tomislav Kovač for the Srebrenica genocide, Nehru Ganić and 11 others for the Čemerno massacre, and 13 accused for crimes committed in Čelibići. At the same time, there has not yet been significant progress in resolving the so-called "rules of the road" cases initially reviewed by the Office of the Prosecutor of the International Tribunal for the Former Yugoslavia, which the Prosecutor's Office of Bosnia and Herzegovina and the Office of the Prosecutor of the Mechanism have jointly identified as important priorities for action.

45. The Office of the Prosecutor of the Mechanism deeply regrets the reactions to the recent arrest of General Atif Dudaković on suspicion of committing war crimes in the Bihać area. Government officials and others falsely claimed that the arrest was an attack on the "honour" of the Army of the Republic of Bosnia and Herzegovina, that Dudaković was a "hero" and that crimes could not have been committed because the Army of the Republic of Bosnia and Herzegovina was defending the country. The Sarajevo Canton Assembly adopted a resolution criticizing the arrests as "anti-Bosnian" and for portraying heroes as war criminals. The Office underlines that independent and impartial justice demands the prosecution of all cases supported by sufficient credible evidence. Government officials, politicians and community leaders should act responsibly and refrain from commenting on or politicizing ongoing judicial proceedings, out of respect for both the victims and the rule of law.

46. Overall, and taking into account the completion strategy of the International Tribunal for the Former Yugoslavia, accountability for war crimes in Bosnia and Herzegovina continues to move in a generally positive direction, with significant results having been achieved so far. In past years, the Office of the Prosecutor of the Tribunal and the Office of the Prosecutor of the Mechanism were critical of the work of the Prosecutor's Office of Bosnia and Herzegovina, including for the long delays in completing the processing of category II cases, the focus on quantity over quality and the failure to honour commitments. However, following intense discussions about those and other issues, and utilizing the resources provided by the European Union, the Prosecutor's Office of Bosnia and Herzegovina shifted its activities in a more positive direction, particularly under the leadership of the Acting Chief Prosecutor. In the past two years, it has issued a large number of significant indictments in complex cases involving senior- and mid-level suspects. At the same time, the distribution of cases between State-level and entity-level prosecution offices has been implemented largely as intended, although there continues to be room for meaningful improvement and challenges to overcome. The Office of the Prosecutor of the Mechanism encourages further positive progress to prevent any regression and will continue working with the Prosecutor's Office of Bosnia and Herzegovina and other prosecution offices in the country to achieve further progress in accountability for war crimes.

4. Croatia

47. As in its eleventh progress report (S/2017/971, annex II), the Office of the Prosecutor of the Mechanism is required to report to the Security Council that the Government of Croatia, by failing to withdraw its 2015 conclusion directing its Ministry of Justice not to provide judicial cooperation in certain war crimes cases,

regrettably continues to interfere politically in the justice process. As a result, a large and growing number of war crimes cases against former members of Croatian and Bosnian Croat forces are frozen. Yet the International Tribunal for the Former Yugoslavia found in multiple cases that members of the Croatian and Bosnian Croat forces had committed war crimes, grave breaches of the Geneva Conventions and/or crimes against humanity. In the *Prlić et al.* case, for example, the Tribunal determined that the six accused, together with then-senior leaders of Croatia, were key participants in a joint criminal enterprise to ethnically cleanse Bosnian Muslims from parts of Bosnia and Herzegovina through the commission of crimes against humanity, grave breaches of the Geneva Conventions and other war crimes.

48. Despite the Office's direct engagement with the Croatian authorities and the State Attorney's Office, very little progress has been achieved over the past two years with regard to that Croatian policy and its negative impact. The policy is having the effect of promoting impunity at the expense of victims throughout the region who deserve justice. No satisfactory explanation has been provided for the maintenance of the policy, and indeed none could be provided, particularly by a State member of the European Union. The Government of Croatia should withdraw the policy immediately and allow the justice process to continue without further interference.

49. With respect to the four category II case files discussed in the ninth (S/2016/975, annex II), tenth and eleventh progress reports of the Prosecutor of the Mechanism, there has been some progress. The *Previšić* case is the only one of those cases in which an investigation has been opened. Boško Previšić, a member of the Bosnian Croat Defence Council, was warden of the Gabela detention facility, at which Bosnian Muslim civilians were persecuted, illegally detained, inhumanely treated and killed. During the reporting period, the case concluded with an admission of guilt by the accused at the first trial hearing. He was then sentenced to eight years' imprisonment. This outcome demonstrates that the remaining three category II cases should be processed expeditiously. Separately, the Office reported in the ninth progress report that the judgment in the *Glavaš* case, a category II case previously referred by the Office of the Prosecutor of the International Tribunal for the Former Yugoslavia to the State Attorney's Office of Croatia, had been revoked by the Supreme Court of Croatia and remanded for retrial. The retrial only commenced in October 2017. The trial court subsequently decided to separate the case against Branimar Glavaš from the case against his co-accused, although they had been indicted together because Glavaš was alleged to have been the superior of the other accused. As a result, two different trial courts will now hear the same case, placing additional burdens on the victims and the prosecution and creating a risk of inconsistent decisions. The Office of the Prosecutor of the Mechanism reiterates its willingness to provide full support and assistance to the State Attorney's Office in those category II cases, including making available expert staff with case-specific knowledge of the crimes and suspects.

50. Overall, and taking into account the completion strategy of the International Tribunal for the Former Yugoslavia, the status of war crimes justice in Croatia is mixed. The State Attorney's Office of Croatia continues to process a number of war crimes cases, including some cases against senior- and mid-level officials. However, there has been little progress over the past few years in processing cases against suspects who are former members of Croatian or Bosnian Croat forces, although the completion of the *Previšić* case with the admission of guilt by the accused is a step in the right direction. The Office of the Prosecutor of the Mechanism urges the Croatian authorities to demonstrate unambiguously their commitment to independent and impartial justice for war crimes, including by expeditiously processing cases against members of Croatian and Bosnian Croat forces transferred from other countries.

5. Serbia

51. The Office of the Prosecutor of the Mechanism held open and concrete discussions with the President, the Minister of Justice and the Chief War Crimes Prosecutor of Serbia about outstanding issues and the continued cooperation of the Serbian authorities with the Mechanism and its Office of the Prosecutor. It was agreed that while cooperation between the Office and the Serbian authorities was satisfactory, Serbia needed to expedite the processing of war crimes cases and move forward more decisively to implement its commitments under the action plan on chapter 23 (judiciary and fundamental rights) of the European Union acquis and its national war crimes strategy. The Serbian authorities accepted the Office's assessment that actions taken so far had not yet led to improved concrete results. It was agreed that the Serbian authorities would continue and strengthen cooperation with the Office as a means of supporting implementation of the national war crimes strategy.

52. As reported in the ninth, tenth and eleventh progress reports, the Office and the Serbian authorities have had ongoing discussions regarding a number of issues, which were discussed again. The Office took note of the adoption of the prosecutorial strategy for the investigation and prosecution of war crimes in Serbia for the period 2018–2023. As discussed with the Chief War Crimes Prosecutor of Serbia, the prosecutorial strategy is an important tool that should now lead to significantly improved results in the work of the Office of the War Crimes Prosecutor. The Office of the Prosecutor of the Mechanism was further informed that one Deputy War Crimes Prosecutor was appointed during the reporting period, while recruitment exercises are currently ongoing for two more positions. The Office noted that those recruitment exercises would fill existing vacancies, but that no steps had yet been taken to strengthen the Office of the War Crimes Prosecutor by establishing seven new Deputy War Crimes Prosecutor positions and seven new prosecutorial assistant positions, as promised in the action plan on chapter 23 and in the national war crimes strategy. The Serbian authorities made a commitment to immediately increase the staffing of the Office of the War Crimes Prosecutor in line with those documents.

53. The Office of the Prosecutor of the Mechanism and the Serbian authorities continued to disagree about other matters. The *Djukić* case, raised in previous reports of the Office of the Prosecutor of the International Tribunal for the Former Yugoslavia and of the Office of the Prosecutor of the Mechanism, remains the subject of intense discussion. The Ministry of Justice provided the Office with examples of seven other war crimes convictions entered by the courts of Bosnia and Herzegovina that are being enforced in Serbia. Those examples, however, only serve to demonstrate the troubling situation in the *Djukić* case. Novak Djukić is a convicted war criminal who has enjoyed safe haven in Serbia for almost three years after absconding from justice, despite the fact that he is the subject of a valid INTERPOL red notice. It is the responsibility of Serbia to either extradite him to Bosnia and Herzegovina to serve his sentence or ensure that the sentence imposed by the courts of Bosnia and Herzegovina is enforced in Serbia. As long as Djukić remains at liberty in Serbia, despite a final conviction for killing 71 and wounding more than 130 civilians, the case will continue to raise significant doubts about the commitment of Serbia to the fight against impunity for war crimes and positive neighbourly relations. This is unfortunate, as Serbia has otherwise established a positive record of prosecuting war crimes cases, against low-level accused, transferred from Bosnia and Herzegovina and Croatia. The Office hopes to be able to report in the near future that Serbia has lifted doubts by positively resolving this case and demonstrating that the fugitives will not enjoy safe haven in Serbia.

54. Overall, and taking into account the completion strategy of the International Tribunal for the Former Yugoslavia, only a few concrete results in Serbia can be easily

identified, two years after the adoption of the action plan on chapter 23 and the national war crimes strategy. Impunity for many well-established crimes remains the norm. Critically, it is clear that Serbia has not yet taken meaningful steps towards establishing an initial track record of investigation, prosecution and adjudication of a higher number of cases, including against high-level suspects, as well as of cases transferred from the Tribunal to Serbia. Responsibility for improved results in future rests primarily with the Chief War Crimes Prosecutor and the Ministry of Justice. With the adoption of the prosecutorial strategy and the commitment to significantly strengthen staffing, it can now only be expected that the Office of the War Crimes Prosecutor will begin investigating, processing, indicting and prosecuting more cases, particularly against senior- and mid-level officials, at a higher rate and a higher quality. The Office of the War Crimes Prosecutor must meet high expectations for meaningful justice, and the Office of the Prosecutor of the Mechanism is committed to continuing to provide needed assistance, including training and other forms of support.

C. Access to information and evidence

55. With the closure of the International Criminal Tribunal for Rwanda and the International Tribunal for the Former Yugoslavia, further accountability for crimes committed in Rwanda and the former Yugoslavia now depends on national justice sectors. The Office of the Prosecutor of the Mechanism seeks to support national judicial authorities prosecuting those crimes, in particular by providing access to evidence and information.

56. The Office possesses extensive evidence and invaluable expertise that can greatly benefit national justice efforts. The evidence collection relating to the former Yugoslavia comprises more than 9 million pages of documents and thousands of hours of audio and video records, most of which was not introduced into evidence in any proceeding of the International Tribunal for the Former Yugoslavia and is thus only available from the Office. The evidence collection relating to Rwanda comprises more than 1 million pages of documents. The Office's staff have unique insight into the crimes and the cases that can assist national prosecutors in preparing and proving their indictments.

57. During the reporting period, the Office of the Prosecutor continued to receive a high volume of requests for assistance from national judiciaries and international organizations.

58. In relation to Rwanda, the Office of the Prosecutor received one request for assistance, which has been processed. In total, the Office handed over 7,395 pages of documentation.

59. In relation to the former Yugoslavia, the Office of the Prosecutor received 234 requests for assistance from five Member States and two international organizations. Of those requests, 184 were submitted by the authorities in Bosnia and Herzegovina, 17 came from Croatia and 20 were from Serbia. In total, the Office handed over 6,093 documents. In addition, the Office filed submissions in relation to 11 requests for variation of witness protective measures, all of which concerned proceedings in Bosnia and Herzegovina. The Office also filed submissions in relation to six applications for information regarding applicable witness protective measures, all of which concerned proceedings in Bosnia and Herzegovina. The Office continued to receive a high volume of requests for assistance during the reporting period and expects to receive an even larger volume of requests in the future.

60. The joint European Union-Mechanism training project for national prosecutors and young professionals continued during the reporting period. Liaison prosecutors

from Bosnia and Herzegovina, Croatia and Serbia are working with the Office of the Prosecutor to support the transfer of evidence and expertise to their home offices and to national prosecutions of war crimes committed in the former Yugoslavia. Similarly, young professionals from those countries are working as interns with the Office, supporting ongoing Mechanism trials and appeals. The Office is grateful to the European Union for consistently supporting this important project and for recognizing the ongoing need to build capacity in national justice sectors.

D. Capacity-building

61. During the reporting period, the Office of the Prosecutor continued its efforts, within existing resources, to build capacity in national judiciaries prosecuting war crimes. The Office's capacity-building efforts focused on the Great Lakes region and East Africa, the former Yugoslavia and global initiatives. Strengthening national capacities supports the principle of complementarity and national ownership of post-conflict accountability.

62. In December 2017, the Office conducted an advanced training course in Mexico on international humanitarian law and international criminal law, with a specific focus on the responsibility of military commanders. The course, organized by Foro De Justicia Internacional, was attended by approximately 250 Mexican military lawyers and was also broadcast to personnel in the field.

63. In February 2018, the Office of the Prosecutor conducted an advanced training course in Dakar on investigating and prosecuting international crimes in Central and West Africa. Thirty prosecutors and investigative judges from the Central African Republic, Côte d'Ivoire, Guinea, Mali, the Niger and Senegal participated in the training, which was very well received. A follow-up course in Abidjan, Côte d'Ivoire, is planned for November 2018.

64. In March 2018, in cooperation with the OSCE Mission to Bosnia and Herzegovina, the Office of the Prosecutor organized a specialized two-day training course in Banja Luka and Sarajevo on the use of the Electronic Disclosure Suite for accessing non-confidential material in the Office's evidence collection. The course was attended by approximately 50 legal associates and investigators from prosecutors' offices and police investigators working on war crimes cases in Bosnia and Herzegovina.

65. The Ministry of Justice, the Office of the War Crimes Prosecutor and the Judicial Academy of the Republic of Serbia have requested the Office of the Prosecutor of the Mechanism to provide war crimes training to members of the Serbian judicial system. Among other topics, the Office intends to provide training on prosecuting conflict-related sexual violence crimes based on its publication *Prosecuting Conflict-related Sexual Violence at the ICTY*, which has been translated into Bosnian-Croatian-Serbian, as reported in the tenth progress report.

66. Within the limits of its operational capacity and existing resources, the Office of the Prosecutor of the Mechanism will continue to engage with training providers and donors to ensure that appropriate practical training in investigative and prosecutorial techniques for war crimes justice is made available. The Office expresses its deep gratitude to partners, including the European Union, the International Association of Prosecutors, the Nuremberg Principles Academy, OSCE and the Governments of Belgium and Switzerland, for providing financial, logistical and other support to enable the Office's capacity-building and training efforts.

E. Missing persons and victim compensation

67. In the Prosecutor's meetings with victims' associations, the lack of information concerning missing family members continued to be consistently identified as one of the most important outstanding issues. The search for and exhumation of mass graves and the subsequent identification of the remains need to be accelerated, as it is essential for surviving family members and fundamental to reconciliation in Rwanda and the States of the former Yugoslavia. Victims from all sides of the conflicts must be identified.

68. During the reporting period, the Office carried out activities to strengthen its support for the search for missing persons in the States of the former Yugoslavia. The Office explored how it can provide national missing persons authorities with information and intelligence from its evidence collection that may assist in tracing and locating those who remain missing today. In the past few years, there have been a number of successful informal efforts to review the evidence in the Office's possession, analyse it and identify leads for action by national authorities. For example, in Bosnia and Herzegovina, the Office and key partners established an informal working group to support the efforts of the country's authorities by providing information and intelligence, which has led to the discovery of a number of grave sites. Based on those successful results and following detailed discussions, the Office and the International Committee of the Red Cross (ICRC) agreed during the reporting period to jointly conduct a thorough review and analysis of information in the Office's evidence collection regarding the fates of each of the 10,000 persons still missing from the conflicts. Information and leads from that review will then be provided to relevant national missing persons authorities for follow-up. The Office and ICRC have every expectation that improved results will be achieved by exploiting the Office's evidence collection and providing international expertise in support of local authorities.

69. In January 2018, the Office hosted a delegation from the Serbian Government Commission on Missing Persons for productive discussions on strengthening cooperation. This initiative was supported by the Office of the War Crimes Prosecutor of Serbia. As a result of those discussions, the Commission will now be able to submit requests for assistance to the Office of the Prosecutor of the Mechanism to gather information in support of its activities.

V. Other residual functions

70. During the reporting period, the Office of the Prosecutor continued to carry out its responsibilities in respect of other residual functions, namely, the protection of victims and witnesses, contempt of court and false testimony, the enforcement of sentences, the review of judgments and the management of records and archives.

71. The volume of litigation before the Mechanism arising from completed cases remains higher than anticipated. During the reporting period, the Office responded to a large number of requests for variation of protective measures and motions for access to case files. In addition, the Office continued to investigate and litigate a review proceeding at its Arusha branch, while also responding to a number of additional motions in relation to review proceedings. Those developments put a strain on the Office's limited resources, especially at the Arusha branch. The Office was nonetheless able to address those unforeseen requirements within existing resources. The Office will continue to monitor the volume of review and related motions and report thereon as appropriate.

72. As reported in the tenth and eleventh progress reports, the Office proposed in early 2016 to amend rule 151 of the Rules of Procedure and Evidence of the Mechanism to establish a programme for conditional early release. The Office is gravely concerned that nearly all convicted persons continue to be released unconditionally after serving only two thirds of their sentences. It is also deeply distressing, particularly to the victims, that those granted early release often deny the crimes and their criminal responsibility immediately upon release. The amendments proposed by the Office would have addressed those legitimate concerns by creating a conditional early release programme, which would have aligned the Mechanism's rules with best practices and established sentencing principles.

73. In April 2018, the Office was informed that the plenary of the judges had refused to adopt the Office's proposal, to make any amendments to the existing regime for early release or to continue its consideration of the matter. The Office regrets that the Mechanism did not take advantage of this important opportunity to address the inadequacies of the current early release regime and to bring it into line with national and international best practices.

74. The Office has now exhausted the avenues available to it for addressing this matter comprehensively. Nonetheless, the Office will be mindful of every opportunity in specific cases to bring its views and concerns to the attention of the President and register its opposition, where warranted, to the unconditional early release of persons convicted of genocide, crimes against humanity or war crimes.

VI. Management

A. Overview

75. The Office of the Prosecutor is committed to managing its staff and resources in line with the instruction of the Security Council that the Mechanism be a "small, temporary and efficient structure". The Office continues to be guided by the views and requests of the Council as set forth in, inter alia, paragraphs 18 to 20 of resolution 2256 (2015).

B. Audit reports

76. In its report on the evaluation of the methods and work of the International Residual Mechanism for Criminal Tribunals (S/2018/206), the Office of Internal Oversight Services (OIOS) concluded that "the Office of the Prosecutor operated with a lean staff and integrated working methods, but friction between management and staff and an unexpectedly high level of judicial activity amid organizational downsizing negatively impacted staff morale".

77. OIOS presented a number of findings that demonstrate that its overall assessment of the methods and work of the Office of the Prosecutor was positive. Regarding the Office's adherence to the vision of the Mechanism as "a small, temporary and efficient structure", as set out by the Security Council, OIOS concluded that: "the Office of the Prosecutor was also effective in planning, restructuring and refining its operational methods to respond to the mandate for a lean and cost-effective organization. As a result, it operated with a small staff and tight resources."

78. OIOS made one recommendation specifically to the Office of the Prosecutor: OIOS noted that due to unforeseen ad hoc judicial activity, "already-stretched Office teams had to work simultaneously on outstanding ICTY cases, an unforeseen retrial

and unexpected litigation arising out of completed Mechanism cases". This caused some difficulties for the Office, particularly in relation to staff morale. OIOS accordingly recommended that the Office should: "support and strengthen staff morale through conduct of a survey to identify key concerns to manage downsizing and upsizing. The Office of the Prosecutor should identify the root causes of low morale to enable better planning for the likely effects of such changes." The Office of the Prosecutor accepted that recommendation and has already begun planning to carry out a survey of staff morale, to analyse the results and to develop strategies to manage institutional changes.

VII. Conclusion

79. During the reporting period, the Office of the Prosecutor engaged in intensive efforts to locate and arrest the remaining eight fugitives indicted by the International Criminal Tribunal for Rwanda and continued its efforts to reform and strengthen its tracking activities. The Office underscores its commitment to arresting the remaining fugitives as soon as possible. State cooperation will be essential to achieving this goal, and the Office appreciates the support already being provided.

80. The Office continued to litigate one trial and two appeals before the Mechanism, all of which were transferred from the International Tribunal for the Former Yugoslavia in accordance with the statute of the Mechanism and the transitional arrangements. During the reporting period, the Appeals Chamber issued its judgment in the *Šešelj* case, granting the Prosecution's appeal in part, convicting the accused for crimes against humanity and entering a sentence of 10 years of imprisonment. In addition to trial and appeal activities in The Hague, the Office processed at both branches a high volume of other litigation arising from completed cases. Using the "one office" approach, the Office will continue to allocate and manage its resources flexibly in order to meet all imposed deadlines.

81. Significant challenges remain with respect to national prosecutions of war crimes committed in Rwanda and in the former Yugoslavia. Regarding war crimes committed in Rwanda, while there has been progress in the cases referred to Rwanda, cases referred to France are still pending more than 10 years after the original referrals. Regarding war crimes committed in the former Yugoslavia, the Office focused its activities during the reporting period on ensuring continuity following the closure of the International Tribunal for the Former Yugoslavia. National authorities now have full responsibility for continuing to implement the completion strategy and to secure more justice for more victims. The Office remains committed to providing its full support, including by responding to requests for assistance, transferring knowledge gained and lessons learned and providing assistance in concrete cases.

82. In all of its endeavours, the Office relies upon and gratefully acknowledges the support of the international community, in particular that of the Security Council.

United Nations S/2018/472

Security Council

Distr.: General
18 May 2018
English
Original: Russian

Letter dated 17 May 2018 from the Chargé d'affaires a.i. of the Permanent Mission of the Russian Federation to the United Nations addressed to the Secretary-General

I have the honour to transmit herewith a statement by the President of the Russian Federation on the missile attacks against the territory of the Syrian Arab Republic carried out on 14 April 2018 (see annex).

I should be grateful if you would have the present letter and its annex circulated as a document of the Security Council.

(*Signed*) D. **Polyanskiy**
Chargé d'affaires a.i.

18-08107 (E) 180518 220518

Please recycle

Annex to the letter dated 17 May 2018 from the Chargé d'affaires a.i. of the Permanent Mission of the Russian Federation to the United Nations addressed to the Secretary-General

[Original: English and Russian]

Statement by the President of Russia, Vladimir Putin

Moscow, 14 April 2018

On April 14, the United States, supported by its allies, launched an airstrike against military and civilian targets in the Syrian Arab Republic. An act of aggression against a sovereign state that is on the frontline in the fight against terrorism was committed without a mandate from the UN Security Council and in violation of the UN Charter and norms and principles of international law.

Just as one year ago, when the Shayrat Airbase in Syria came under attack, the US used as a pretext a staged chemical attack against civilians, this time in Douma, a Damascus suburb. Having visited the site of the would-be chemical attack, Russian military experts did not find any traces of chlorine or any other toxic agent. Not a single local resident was able to confirm that a chemical attack had actually taken place.

The Organisation for the Prohibition of Chemical Weapons dispatched its experts to Syria in order to investigate all the circumstances. However, in a sign of cynical disdain, a group of Western countries decided to take military action without waiting for the results of the investigation.

Russia condemns in the strongest possible terms the attack against Syria, where Russian military personnel are assisting the legitimate government in its counterterrorism efforts.

Through its actions, the US makes the already catastrophic humanitarian situation in Syria even worse and brings suffering to civilians. In fact, the US panders to the terrorists who have been tormenting the Syrian people for seven years, leading to a wave of refugees fleeing this country and the region.

The current escalation around Syria is destructive for the entire system of international relations. History will set things right, and Washington already bears the heavy responsibility for the bloody outrage in Yugoslavia, Iraq and Libya.

Russia will convene an emergency meeting of the UN Security Council to discuss the aggressive actions by the US and its allies.

United Nations S/2018/473

Security Council

Distr.: General
12 June 2018
English
Original: French

Letter dated 17 May 2018 from the Permanent Representative of Morocco to the United Nations addressed to the President of the Security Council

I have the honour to transmit herewith a copy of the letter that I addressed today to the Secretary-General with regard to the grave violations of the ceasefire, military agreements and Security Council resolutions committed by "polisario" (see annex).

I should be grateful if you would have the present letter and its annex circulated as a document of the Security Council.

(*Signed*) Omar **Hilale**
Ambassador
Permanent Representative

18-09562 (E) 180618 180618

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Annex to the letter dated 17 May 2018 from the Permanent Representative of Morocco to the United Nations addressed to the President of the Security Council

Upon instructions from my Government, I regret to inform you that "polisario" is persisting with its provocative and destabilizing actions in the area east of the security structure in the Moroccan Sahara, in blatant violation of the ceasefire in force since 1991, the military agreements and Security Council resolution 2414 (2018), adopted by the Security Council just three weeks ago on 27 April 2018.

In that regard, I should like to convey to you the following extremely serious and alarming information, which the Kingdom of Morocco has already brought to the attention of the Department of Peacekeeping Operations and to MINURSO on numerous occasions:

1. **Establishment by "polisario" of fixed military sites in the area east of the security structure in the Moroccan Sahara:**

   - The Minister for Foreign Affairs and International Cooperation of the Kingdom of Morocco brought to your attention, during your meeting on 4 April 2018, the extreme gravity of the illegal "decision" of "polisario" to establish nine new fixed military sites in the area east of the security structure in the Moroccan Sahara, as communicated to the MINURSO Force Commander on 24 March 2018.
   - MINURSO responded to "polisario" that the establishment of these sites violated military agreement No. 1.
   - On 3 May 2018, "polisario" committed another violation by notifying the MINURSO Force Commander of its "decision" to establish six new fixed military sites in the area east of the security structure in the Moroccan Sahara.

2. **Organization by "polisario" of a military parade and manoeuvres in the area east of the security structure in the Moroccan Sahara:**

   - On 20 May 2018, "polisario" plans to organize a military parade and manoeuvres in the locality of Tifariti, in the area east of the security structure, on the occasion of the so-called "forty-fifth anniversary of the creation of polisario and the start of the armed conflict".
   - In that regard, a large number of armed elements of "polisario" have been redeployed from the Tindouf camps in Algeria to the locality of Tifariti, in the area east of the security structure in the Moroccan Sahara, to participate in the said military parade and manoeuvres.

The Minister for Foreign Affairs and International Cooperation met with your Special Representative and Head of MINURSO yesterday in Rabat and presented him with irrefutable evidence of the aforementioned violations committed by "polisario".

The Kingdom of Morocco reiterates its firmest condemnation of these unacceptable provocations, which constitute flagrant violations of the ceasefire. The ceasefire established the area east of the security structure in the Moroccan Sahara as being devoid of any civilian or military presence.

These illegal actions by "polisario", a military armed group, constitute, moreover, a grave violation of military agreement No. 1.

In addition, the establishment of military sites and the organization of military parades and manoeuvres in the area east of the security structure in the Moroccan

Sahara violate the provisions of resolution 2414 (2018), by which the Security Council expressed its concern regarding the provocations by "polisario" in the area east of the security structure and called for it to refrain from all of its destabilizing actions.

In the same resolution, the Security Council called for "polisario" to withdraw immediately from the buffer strip in Guerguerat.

MINURSO, as the guarantor of compliance with the ceasefire, must order "polisario" to refrain from the aforementioned illegal actions and from all its provocations, which undermine your efforts and those of your Personal Envoy to relaunch the political process, and which seriously threaten peace and security in the region.

MINURSO must, furthermore, require "polisario" to respect fully the area east of the security structure in the Moroccan Sahara as an area devoid of any civilian or military presence, with the exception of that of MINURSO, which is working to monitor the ceasefire.

The Kingdom of Morocco will not accept nor tolerate such violations; "polisario" will bear full responsibility for the consequences of its violations of the ceasefire, military agreements and Security Council resolutions.

This letter will be also transmitted to the President of the Security Council for circulation as a document of the Council.

(*Signed*) Omar **Hilale**
Ambassador
Permanent Representative